

The Origin and Development of the General Assembly  
of the Church of Scotland, 1560-1600.

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Thesis presented for the Degree of Doctor of Philosophy of the  
University of Edinburgh in the Faculty of Arts. 1st April, 1962.



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## Introduction.

'The generall assemblie of this haill Realme' of Scotland developed towards the end of the European reformation era which had produced immense changes in thought and action. The varied impacts from the different centres of the continental reformation are difficult to assess with a complete degree of precision. The movement of ideas was as often conveyed by word of mouth as by the printed word. One aspect is clear. As the reformation was mainly a religious revival, the reconstruction of the church, immediately after repudiation of papal jurisdiction, took second place and the church organisation was not as consciously constructed as doctrinal statements. Each church grew up in face of certain difficulties or within a special situation. The constitution was the result of a tension between theological insights and the dictates of necessity.

A great deal was new and revolutionary, yet, there remained much which was transplanted from the Middle Ages into later times by the reformation. All that was carried over from the medieval period is

1. The name given to the Assembly in The Acts of Parliament of Scotland (later referred to as A.P.S.) (ed. T. Thomson and C. Innes) Edinburgh, 1814. vol. iii. p. 23.

not now easily recognised. Often it is unlooked for or has been transmuted in the teaching of the reformers. Revolutions are much more superficial than they generally appear at first glance. At the reformation all men were still tied to medieval ways of thought, speech and practice. Even Calvin, who has been looked upon as a rebel retaining nothing of the past, was a creature of his time and 'the continuity of his position in general with that of the Middle Ages' is apparent in much of what he said and did. As with other constitutions, the Assembly was not only moulded in the furnace of the contemporary religious revolution but the practice and procedure of many pre-reformation institutions left their mark on this body which was being shaped. As has been said, 'The old is always dying and the new being born, but there is no breach of continuity. The new could not be born except of the old, and the old gives evidence of life not death by being transformed into the new.'<sup>2</sup>

The Assembly was a debtor to many for the form into which its constitution developed. The main sources lay in the countries which had been

1. H.B. Workman, Christian Thought to the Reformation, London, 1911. p.165.

2. Times Literary Supplement dated 24th March, 1922. quoted by L.E.

Binns, Erasmus the Reformer, London, 1923. p. xiii.



reformed for upwards of two decades before 1560. These were the Scandinavian countries, the Lutheran states of Germany and the reformed cantons and cities of Switzerland. England during that time had been oscillating between Romanism and Protestantism and had, at that time, little direct influence on Scottish religious life or theology. The main effect of the English reformation became important after 1560. In addition, various elements both new and old within the life of Scotland contributed certain ideas and methods which were important and made the Assembly not only a church gathering but a national council. The town councils, the Convention of Royal Burghs and the Three Estates all played a part in the development of this unique institution. Over all lay the shadow of the church of the past, forgotten but whose influence was still at work in the sub-conscious minds of many who had firmly determined 'to abhor and flee all superstition, Papistry and idolatry.'

The constant continued use down to the present day of the mode of addressing the General Assembly as 'fathers and brethren' as used in medieval ecclesiastical assemblies is an interesting example of

1. The Exhortation in the Order of Baptism in the Book of Common Order.



this.'

Such influence and interactions must be considered without laying undue stress on any one source.

1. 'Reverendi patres, fratresque perdilecti', MS. Bodl. Lat. Th. d. i, fol. 107 quoted by G.W. Owst, Preaching in Medieval England. Cambridge, 1926. p. 150.

## The Register of the General Assembly.

The minutes of the proceedings of the Assemblies and copies of documents issued by them were referred to as 'the Register' or 'the Registers'. This illustrates, as many other procedures and the name of various documents also do, the direct influence of state departmental procedure and the view which the Assemblies held regarding their status when they used a word for their records which was the same as that which was used, for example, by the Privy Council to describe its minutes etc.

There must be some consideration of the records upon which this study is based, as occasionally, it is found necessary to refer to records other than the minutes of Assemblies because of their incomplete state.

The Register was, from the beginning, normally held by the Clerk to the General Assembly. This was altered in the 1580s when the records were taken out of his possession, it would appear, by Patrick Adamson, archbishop of St Andrews.

It was at the Assembly of 1586 that action was first taken to recover the records. The Assembly directed George Hay and

Patrick Galloway to go to the King and request their return. At the same session of the Assembly they returned with the report that the King had decided that 'they should be delyverit to the Clerk ilk day during the Assembly, but at evin they should be in the hands of the Lord Privie Seale', quhill the end of the said Assemblies, betuixt and the quhilk day his Majestie wald be present himselfe.<sup>2</sup> James felt entitled to do this because of his claim that the Assembly, as a court of the realm, was under his authority and its record, like those of Parliament, the Privy Council etc., were the property of the crown.<sup>3</sup> It is difficult to understand the arrangement made regarding the records being in the hands of the Lord Privy Seal and not the Lord Clerk Register as it was the latter who looked after the parliamentary records. It would seem to have been more appropriate to have instructed him to have the custody of the Assembly minutes. The

1. Walter Stewart, commendator of Blantyre obtained the Privy Seal in November, 1582, Register of the Privy Council of Scotland (ed.D.Masson) Edinburgh, 1880, vol. iii. p. 528 (later referred to as R.P.C.)
2. Acts and Proceedings of the General Assemblies of the Kirk of Scotland from the year MDLX (ed. T.Thomson), Edinburgh, 1839-45 (Bannatyne and Maitland Clubs) (later referred to as B.U.K.) p. 647.
3. It should be noted that according to the Regiam Magestatem 'Recordum potest habere quaelibet curia ex beneficio Domini Regis vel justitiorii principalis'. Stair Society edition. Edinburgh, 1947. p. 216.

records were, in fact, not delivered up as the King had promised.'

It may have been impossible for James to implement his promise as quickly as he suggested because it is certain that they were never in his possession, and King's Commissioners at the second session of the 1587 Assembly stated that they were prepared to assist the Assembly in its attempts to recover their records from whoever held them.

Andrew Melville, moderator, requested any present who knew anything about the matter to inform the Assembly. After Patrick Galloway had reported that 'His Majestie had promised to cause them to be ~~del~~verit' which appears to have been a report on his audience with the King during the previous Assembly, John Brand, minister of the Canongate, stated that during that Assembly, in his own house, in the presence of David Ferguson, Patrick Adamson had admitted that he knew where the records were and that if ~~was~~ so instructed by the King he would see that they were delivered up. It was also testified by John Durie, formerly minister of Edinburgh that he had heard him admit that he had the Register.

The Assembly decided that steps should be taken against Adamson

1. B.U.K. p. 686. For records which were not in charge of the Clerk Register cf. J.M. Thomson, The Public Records of Scotland, Glasgow, 1922, pp. 136-160.



and, 'for the better advyce in that matter, directit Mr David Lindesay to my Lord Secretar; quho returning with his ansuer, thoct meit ane supplicatioun sould be givin to the Lords of Counsell to abtaine charges agains the said Mr Patrick; and lykewayes that the Kirk sould use thair awin charges and authoritie.' The Assembly therefore framed a supplication to the Lords of Council to take action against Adamson and directed that a charge should pass from the Assembly, 'chargeing the said Mr Patrick to exhibite the saids bookes befor them, to be delyverit to the Kirk within thrie dayes after the charge, or shew ane reasonable cause why he may not deliver them; and sicklyke to compeir within the said space personallie, to ansuer for his absence from this Assemblie, and to such vther accusatiouns as sould be laid to his charge, vnder the paine of the censures of the Kirk.'

Adamson did not recognis the Assembly's jurisdiction and therefore did not appear before it nor deliver the records to the clerk. It was in response to the command of the King and George Young being 'stayit quhill the saids Bookes should be delyverit' that Adamson gave up the records. The Assembly immediately sent James Nicolson and Alexander Rawson to the

1. Ibid. p. 686.

Lord Secretary to obtain the records from him. As this did not produce the desired result, Andrew Melville, the moderator and David Lindsay were sent to him. Eventually, Young 'presentit to the sight of the Kirk fyve volumnes of thair Actis, quherof a great part being mankit.' They were handed back to Young after they had been perused.<sup>1</sup>

The volumes exhibited were for December, 1560 to December, 1566, June, 1567 to August, 1572, March, 1573 to March 1574, August, 1574 to 1579 and 1580 to 1585 respectively.<sup>2</sup>

The Assembly was very perturbed about the wilful destruction of certain parts of the minutes. It despatched an 'Article' to the King 'lamenting the away taking and mutilating of the saids Bookes, and to crave that the samein may be restored; and also, that the saids Bookes may be delyverit in the Kirks hands, to remane with them as thair awin Register; namelie, in respect of the ansuer returnit from my Lord Secreitar, that his Majesties will wass that the Kirk sould have inspectioun therof as they had adoe presentlie, and to give them vp againe.'<sup>3</sup>

The mutilation of the records would seem to have been the work

1. Ibid. p. 697.

2. Ibid. pp. xiii. and xxviii.

3. Ibid. p. 697.

of a group of people and not that of Adamson alone according to his own account of the matter given to the Synod of Fife in April, 1591.

'As quhair ze require quhat became of the bukes of the Assemblie, all quhilkis I had preserved hole, unto the returning of the Lords and Ministrie out of England; and if I had noth preserued thame, my Lord of Arrane intendit to haif maid theme be cast into the fire; and upon a certane day in Falkland, befoir they wer delivered to the King's Majestie, the Bischope of N., accompanied with Henry Hamiltoune, rent owt sum leafes, and destroyed sic things as maid agains our estaite, and that not without my awne speciall allowance.'

The Register appears to have come into the possession of the clerk again sometime between 1586 and 1590 as all these volumes were kept together and recovered from Alexander Blair, writer, in 1638 who had become Keeper of the Register of Assignations and Modifications of Minister's Stipends after Robert Winram.<sup>2</sup>

1. John Row, The History of the Kirk of Scotland, from the Year 1558 to August, 1637, with a continuation to July, 1639 by his sons John Row. (ed. D. Laing) Wodrow Society, Edinburgh, 1842. p. 123. 'The Bischope of N.' is usually identified as David Cunningham of Aberdeen.

2. See. pp. 267.



Other two volumes from 1590 to 1616 and some papers including the minutes of the 1617 Assembly were in the hands of Thomas Sandilands, the son of the late clerk to the General Assembly, in 1638. They had been returned to him by Archbishop John Spottiswood who would appear to have had these volumes together with the others at some time or another to assist him in the writing of his History of the Church of Scotland.<sup>1</sup>

In spite of the reformers attitude to canon law,<sup>2</sup> the Assembly of August, 1574 'Because it is generally complained be the brethren, that the Acts of the Assembly concerning universally the whole Kirk, as also sundry questions coming in dayly use in particular Assemblies, and resolved in the Generall Assemblies of before, are not done to thair knowledge, which were most necessar to be known and notified to the whole brethren, that none should pretend ignorance therof: For remeed hereof, The Assemblie hes willit thair lovit brether, Mr Robert Maitland, Deane of Aberdeine, Robert Pont, Provest of the Trinitie Colledge, Johne Brand, James

1. B.U.K. p. xxxviii.

2. cf. e.g. Ernst Pfisterer, 'Calvin im Kampf mit dem Canonischen Recht' in Calvins Wirken in Genf. Neukirchen. 1957. pp. 57-63.



Carmichaell, Minister of Haddington,<sup>1</sup> to take travell in visiteing and persuing of the saids acts; and sick as are generall with the Generall Assemblies, to marke and note the samein, that thereafter they may be drawin and extractit out of the bookes, that all pretext of ignorance may be tane away.<sup>2</sup> This committee did not produce anything and in 1582 John Craig, who had some knowledge of canon law, was ordained by the Assembly 'to lay ane ordour for collecting the Acts of the Kirk, betuixt and the nixt Assemblie.'<sup>3</sup> Craig made considerable progress and at the Assembly following a committee composed of the Commissioners of Edinburgh was appointed to examine the work done and report to the next Assembly.<sup>4</sup> When this committee handed in its report to the Assembly, it still had not completed the work committed to it. While congratulating Craig on his work, the members stated that there were, nevertheless, 'some things they had noted, wherewith they desired he sould conferr, and thereafter

1. The first two were Senators of the College of Justice. G. Brunton and D. Haig. An Historical Account of the Senators of the College of Justice from its Institution in MDXXXII, Edinburgh, 1832 (later referred to as Senators) pp. 122, 151.

2. B.U.K. p. 325.

3. Ibid. p. 566

4. Ibid. p. 624.

proceed with him in farther reasoning'.<sup>1</sup>

Nothing further was heard of Craig's work but it seems likely that James Carmichael, who had been on the committee to look into this matter at the Assembly of August, 1574, took over what material there was and added it to what he had in his own possession. The reason for assuming this is that the Assembly of 1593 instructed him, 'qhua hes alreddie tane sum paneis in correcting (the acts of the Kirk)', so that presbyteries might be aware of the Acts of the Assembly, 'to perfyte the work, and to present the same to the nixt Generall Assemblie of the Kirk.'<sup>2</sup> He completed this work for the period 1560 to 1590<sup>3</sup> but it was never published, although the Assembly of 1595 ordained that the Acts of Assembly 'be sichtit, and speciall Acts for practise of the Kirk be extractit and jointit with the Booke of Discipline, to be publischt either in wryte or print, that none pretend ignorance thereof' and a committee, including Carmichael, appointed to carry out the work.<sup>4</sup>

1. Ibid. p. 628.

2. Ibid. p. 815.

3. Ibid. p. xxvi.

4. Ibid. p. 856. The Book of Discipline, i.e. the Second Book of Discipline, was not printed until 1621 when it was published anonymously by David Calderwood in Holland.

Carmichael's manuscript and the Registers of the General Assembly were in private hands at the beginning of the seventeenth century.

At the General Assembly of 1638 the volumes 1560-66, 1567-72, 1580-83, 1586-1589, 1590-97 and 1598-1616 and the Carmichael volume 1560-1590 were recovered and later at that Assembly an 'Act Approving the Register's' was passed.<sup>1</sup> At the Assembly of the following year the volume March, 1573-1574 was recovered from Master John Rig.<sup>2</sup>

Due to the Civil War the records were divided into two portions, the Carmichael volume and the two volumes 1590-1616 were delivered to Alexander, earl of Balcarres, Lord High Commissioner to the General Assembly of July, 1651.<sup>3</sup> On the instructions of the Commission of the General Assembly, January, 1652 the other volumes were deposited in the Bass Rock<sup>4</sup> which was surrendered to the Parliamentarians in April, 1652<sup>5</sup> and these

1. Acts of G.A. Ses. 6 and 7. Nov. 27 and 28. Ass. 1638.

2. Act of G.A. Ses. 18. Aug. 26. Ass. 1639.

3. 'Letter and Receipt to George Ogilvy of Barras, concerning the Registers of the Church of Scotland' printed in Memoirs of Mr. William Veitch, and George Brysson. (ed. T. McCrie) Edinburgh. 1825. pp. 524-6.

4. B.U.K. pp. xxix - xxx.

5. Scotland and the Commonwealth (ed. C.H. Firth) S.H.S. Edinburgh. 1895. pp. xix, 322, 333-5.



records were sent to the Tower of London along with other Scottish records.<sup>1</sup> Sometime after this date these Registers disappeared. They were either lost at sea in 1660<sup>2</sup> or destroyed in the fire at the Lawnmarket, Edinburgh on 28th October, 1701.<sup>3</sup>

The earl of Balcarres appears to have returned the records to Andrew Ker, clerk to the General Assembly, and, on his death, they passed into the hands of his brother Robert Ker, who was his heir.<sup>4</sup> After the Restoration, by some means, John Paterson, archbishop of Glasgow, gained custody of them and retained the records in his possession after 1689.<sup>5</sup> He gifted them to the Honorable Archibald Campbell.<sup>6</sup> Robert Wodrow knew that he had manuscript records of the General Assembly in March, 1727, although

1. M. Livingston, A Guide to the Public Records of Scotland, Edinburgh, 1905. pp. xiv-xvii.
2. Ibid.
3. Act of Assembly, 1703, 6. 9.
4. B.U.K. p. viii.
5. The Dictionary of National Biography (later referred to as D.N.B.) and J. Dowden, The Bishops of Scotland (ed. by J.M.Thomson) Glasgow, 1912. pp. 404-6 give accounts of him.
6. R. Keith, History of the Affairs of Church and State in Scotland from the beginning of the Reformation to the year 1568 (ed. J.P.Lawson) Spottiswoode Society, Edinburgh, 1850, vol. ii. p. 27n.



he was unaware at that date of their contents.<sup>1</sup> In March, 1733, the Commission of the General Assembly instructed William Grant of Preston Grange, procurator of the Church and principal clerk of the General Assembly from 1731 to 1745, to inspect the records which Campbell had offered to make available for sale or to be published in extenso.<sup>2</sup> He reported to the Assembly of 1733<sup>3</sup> and a committee was formed which consulted Robert Wodrow who submitted a detailed report. Wodrow suggested action through the government to obtain the Register if Campbell refused to be reasonable but the Church did nothing.<sup>4</sup> Soon after, in 1737, Campbell gifted them to the library of Sion College, London and they lay there for almost a century.<sup>5</sup> Just as the Church

1. The Correspondence of the Rev. Robert Wodrow (ed. T. McCrie) Wodrow Society. Edinburgh. 1842-43, (later referred to as Wodrow, Correspondence) vol. iii. p. 285. The Faculty of Advocates in Scotland, 1532-1943. (ed. F.J.Grant) Edinburgh, 1944. (later referred to as Grant, Advocates) p. 89.
2. B.U.K. p. xxxix-xl.
3. Ibid.
4. B.U.K. pp. xli-xlv.
5. Ibid. p. x.

was negotiating for possession of them, in 1834, they were destroyed by fire at Sion College.<sup>1</sup>

Because all the original Registers of the General Assemblies for the period under consideration are no longer in existence, it is necessary to give some account of the copies of the minutes which are known to have been made and what has happened to them.

In addition to the Carmichael duplicate, another copy of the Registers was made shortly after 1609 and was signed by Thomas Nicholson, clerk.<sup>2</sup> At the beginning of the eighteenth century it was in the possession of George Ridpath.<sup>3</sup> It was subsequently acquired by Dr James Fraser who presented it to the library of the divinity hall in the University of Edinburgh. A copy was made for the use of the Church in 1730 which was, until quite recently, in the library of the General Assembly. Both of these copies are now lost.<sup>4</sup>

1. Ibid. pp. x-xi and xxxiii to xxxvii.

2. Wodrow, Correspondence. vol. ii. p. 308.

3. Ibid. for an account of George Ridpath cf. D.N.B.

4. B.U.K. p. ix and Reports to the General Assembly 1961. Edinburgh. 1961.  
p. 33.

Another copy of the Registers was made in 1638.<sup>1</sup> This was later in the hands of Bishop John Sage who quoted very fully from it in The Fundamental Charter of Presbytery. London, 1695.<sup>2</sup> This manuscript was sold to Robert Wodrow.<sup>3</sup> Sage, according to Wodrow, claimed that it was 'the only copy in the kingdome' but this was not so as there appears to have been at least another copy known to Sir Robert Sibbald in addition to the Sage, Nicholson and Carmichael copies.<sup>4</sup> This transcript of the Registers is now in the National Library of Scotland.

Since the destruction of the large amount of the material contained in the Registers of the General Assemblies as a result of the Sion

1. The Fundamental Charter of Presbytery. London, 1695. reprinted as vol. 1. of Works of Right Rev. John Sage. Spottiswoode Society. Edinburgh. 1844. p. 4.
2. Ibid. passim. He also had in his possession records which belonged to the synod of Clydesdale and the presbytery of Glasgow which were not recovered by the Church until 1792. Ibid. pp. xxxviii. - xln.
3. Early Letters of Robert Wodrow. (ed. L.W.Sharp) S.H.S. Edinburgh. 1937. p. 180.
4. Ibid.



College disaster, the extant manuscripts are the only sources which have been used by all historians and controversialists since those who wrote before the middle of the seventeenth century. As the Sage manuscript has been used to compile the Bannatyne and Maitland Clubs' edition of Acts and Proceedings of the General Assemblies of the Kirk of Scotland from the year 1560 to 1603<sup>1</sup> it has been found sufficient to quote from the minutes as printed without reference to the manuscripts.

John Knox had access to the Register during his lifetime and there is much in his History of the Reformation in Scotland<sup>2</sup> extracted from the minutes and other documents or amplified from personal knowledge which is a valuable supplementation of the shortened record now extant. The records, as has already been noted, were in the possession of John Spottiswoode, archbishop of St Andrews, for a time

1. Edinburgh, 1839-45.

2. The edition by W. Croft Dickinson, Edinburgh. 1949. 2 vols. is quoted throughout unless otherwise stated.



The History of the Church of Scotland written by him,<sup>1</sup> also based on material not now available, augments the data contained in the existing minutes although it is more significant for the early seventeenth century which was the period covered wholly by his own experience as well as by documents and his interest lay rather in this later period.

The other sources are the seventeenth century historians, David Calderwood and John Row who had access to the Registers after their recovery in 1638 and extracted information from them. Calderwood's The History of the Kirk in Scotland<sup>2</sup> gives a much fuller account than often remains in the truncated Register.<sup>3</sup> Row completed the first draft of his history of the Church about 1634, the work was important because the papers of Row's father-in-law, David Ferguson, minister of Dunfermline, were used by the author in the preparation of the manuscript. Subsequently, on the Registers being recovered, he enlarged

1. The Spottiswoode Society and Bannatyne Club. Edinburgh. 1850. 3 vols.  
is the edition used.
2. The edition by David Laing, Wodrow Society. 1842-49, is the only edition referred to in this study.
3. cf. Robert Wodrow's letter anent the Register printed in B.U.K. p. xli.

his original draft by including summaries of the proceedings of the General Assemblies from 1560 to 1618 which were taken from the records and brought his The History of the Kirk in Scotland<sup>1</sup> down to 1638.

From internal evidence, it is certain that Alexander Petrie used a copy of the minutes while writing A Compendious History of the Catholick Church from the Year 600 untill the Year 1600<sup>2</sup> but it cannot now be determined whether it was the Sage or Nicholson copies or another. It is also possible that William Scot, the author of An Apologetical Narrative of the State and Government of the Kirk of Scotland since the Reformation,<sup>3</sup> used the records in the compilation of his narrative.

It is sometimes difficult to know if the account of any particular sederunt of an Assembly given by one author is a verbatim summary or an interpretation by him of what took place<sup>4</sup> and to ensure maximum

1. Edited by David Laing. Wodrow Society, Edinburgh. 1842.
2. Printed at the Hague in 1662.
3. Edited by David Laing. Wodrow Society, Edinburgh. 1846.
4. cf. e.g. Wodrow's remarks concerning Scot's Apologetical Narrative as quoted by Petrie (Early Letters of Robert Wodrow. pp. 47-8) and Spottiswoode's historical writings and the use of the manuscripts. (Wodrow, Correspondence, vol. iii. p. 169.)

accuracy, the various accounts have to be collated where possible.

Therefore the history of the early Assemblies, as far as the witness of its own proceedings is concerned, has as a basis the minutes, which have been mutilated by some of the pro-episcopal party of the Church of that time, supplemented by Knox, Spottiswoode, Calderwood, Row, Petrie and Scot.



## The Legal Status of the General Assembly.

From the moment the Parliament of Scotland met at Edinburgh in August, 1560<sup>1</sup> until the present day,<sup>2</sup> the legality of that meeting of the Three Estates has been debated.

It is important that this problem should be considered in the light of the legal conceptions and political ideas current at that time as it was within this context that the General Assembly originated.

There is no doubt that there was a change of procedure in the convening of that Parliament. The necessity of 'an alteration

1. When the question was raised in Parliament about its meeting without either a summons from the Queen or her presence, it was decisively set aside. For a discussion of the question see a note by Mark Napier 'On the Validity of the Parliament held at Edinburgh in the month of August, 1560' in Spottiswoode, History, vol. i. pp. 378-84.
2. E.g. W.E. Brown, 'The Reformation in Scotland' in European Civilisation, its Origin and Development. London, 1936, (ed. Edward Eyre.) vol. iv. pp. 489-560.



of government' was recognised by the reformers before the Parliament or the Assembly met.<sup>1</sup> This was brought about, not because of any change in political theory or some new Christian doctrine of revolution. The action which was taken was quite in keeping with the political thought of the Middle Ages. Reformation was absolutely necessary. A change had to take place in the spiritual state of Scotland and this was only possible if a definite break was made with the past. The reformers were quite emphatic that they were making a new beginning and repudiated any connection with 'the Kirk malignant'<sup>2</sup> but, nevertheless, they maintained with equal firmness that there existed a continuity within the invisible church

1. Balnaves informed Sadler that 'an alteration of the State' was planned. Sadler Papers. vol. i. pp. 430-436. Knox, wrote, just before Parliament met, on 3rd August, 1560 'An alteration of the government is to take place'. Calendar of the State Papers, relating to Scotland. (1509-1603) (ed. M.J. Thorpe) London, 1858. vol. i. p. 115.
2. 'The notes, signes, and assured takens whereby the immaculate Spouse of Christ Jesus is knawen fra the horrible harlot, the Kirk malignant, we affirme, are nouthier Antiquitie, Title usurpit, lineal Descence, Place appointed, nor multitude of men approving ane error.' Scots Confession, 1560 (ed. G.D. Henderson) Edinburgh, 1937 Article. xxviii.

of the elect of God.<sup>1</sup>

The first meeting of the General Assembly had no legal precedent. There are many who can find no legal basis for the Scottish Reformed Church until the Act of 1567.<sup>2</sup> In the debates concerning the legality of the whole reformed movement, including the 1560 Parliament, and important medieval political doctrine, which would be uppermost in the minds of all who organised the change in Scotland, has not been considered.

There can be no doubt that the activities of 1560 were deemed to be necessary by those who were involved in the movement toward reforming the Church in Scotland. If such acts were necessary then they were right to the medieval mind. F.M. Powicke, writing about the theory of necessity developed during the reign of Philip IV of France

1. '... we maist constantly beleeeve, that from the beginning there hes bene, and now is, and to the end of the warld sall be, ane Kirk, .... This Kirk is invisible, knawen onelie to God, quha alane knawis whome he hes chosen; and comprehends as weill (as said is) the Elect that be departed', The Scots Confession, Article. xvi.

2. A.P.S. vol. iiii. p. 14. et. seq.

(1285-1314), states that knights as well as clerks, lawyers rather than theologians, 'emphasised the duty of the laity in times of stress ... They could express or at least appreciate the expression of public utility in terms of necessitas, and by necessity they meant more than public need. They meant the right and duty of the king and his agents, indeed of the ordinary man, to override positive law in the common interests for which they were responsible .... The word necessity has had a long history ..... St. Thomas Aquinas developed a theory of necessity. He argued that, in certain circumstances, necessity knows no law; also that a tyrant can be removed on the ground of necessity; and he justified this view by an appeal to Aristotle's discussion of epieikeia or equity, when he says that gaps in the law must be filled from the standpoint of equity.'

1. 'The appeal to necessity in medieval literature has received much attention in recent years, especially from German writers. Richard Scholz emphasised its significance in his treatise Die Publizistik zur Zeit Philipps des Schönen und Bonifaz VIII (Stuttgart, 1903, e.g. p.365, 369. For later discussion see a useful collection of references in H. Wierciszowsky, Vom Imperium zum nationalen Königtum (Munich, 1933) *passim*.' This is an extract from Professor Powicke's presidential address to the Royal Historical Society, delivered on 13th February, 1936. 'Reflections on the Medieval State' which is printed in the Transactions of the Royal Historical Society, Fourth Series, vol. xix. p. 6-7



Many of the Scottish reformers would not have based their apologia for their actions directly upon such a theory but would have used arguments such as those put forward by John Calvin in 1544 in his pamphlet 'The Necessity of Reforming the Church'. The basis of the Reformation was Biblical, nevertheless, in the approach to those who were in a position to reform the Church an appeal was made by the reformers to accepted standards. This is apparent in the foregoing work of Calvin addressed to Emperor Charles V. The doctrine of necessity is particularly mentioned. He writes, 'There are two circumstances by which men are wont to recommend, or at least to justify, their conduct. If a thing is done honestly, and from pious zeal, we deem it worthy of praise; if it is done under the pressure of public necessity, we at least deem it not unworthy of excuse. Since both of these apply here, I am confident, from your equity, that I shall easily obtain your approval of my design.'

There can therefore be little doubt that whether they thought

1. John Calvin, 'The Necessity of Reforming the Church' in Tracts Relating to the Reformation. Calvin Translation Society. Edinburgh. 1844. vol. i. p. 124.



out the position for themselves or based their decisions on Calvin's works, the Scottish reformers saw no other way open to them and that the action which they took was absolutely necessary and therefore right. The words of Publilius Syrus 'Necessitas dat legem, non ipsa accipit.'<sup>1</sup> express in a few words one of the many important medieval ideas which sprang to the fore at the Reformation.

To accomplish the necessary change in the constitution, the reformers looked to the 'godly Prince', to the 'godly magistrate' against the Crown or to the people to revolt if it was deemed necessary.<sup>2</sup> These ideas were all within the medieval traditions which moulded much of the reformers' thought.

1. Sententia, J. 399.

2. See. pp57-65.below.

### Membership of the Assembly.

The actual composition of the General Assembly of the Church in Scotland shows that there was no change in outlook from that of the Middle Ages concerning the church's place in society. For the first decade, at least, the Church never thought of itself as existing over against the state. It accepted the conception that the Church and State were two functions of one society. No new concept on this question was imported into the reformation movement.

Stephen of Tournai in an often quoted passage explains the medieval ideals of the one society with two different authorities which administered the spiritual and temporal affairs. 'In the same city and under the same king, there are two peoples and two ways of life, two authorities and two jurisdictions. The city is the Church - the king is Christ. The two peoples are the two orders in the Church - the clergy and laity. The two authorities are the priesthood and the kingship. The two jurisdictions are the divine and human laws.'

1. c.f. A.J. and J.W. Carlyle, The History of Medieval Political Theory in the West, Edinburgh and London, 1903-28, vol. ii. p. 198 and vol. iv. p. 166.

The Church might have stated their ideals in a slightly different manner but their basic position was the same. All principalities of this world were to Calvin the figure and image of the Kingdom of Jesus Christ ruled and governed by the providence of God.<sup>1</sup> They would have had in mind too the pre-Reformation view of society as under a universally recognised Roman law on one hand and a universal spiritual jurisdiction which is set forth, for example, by John of Salisbury in his Policraticus.<sup>2</sup> The relations between the Assembly and the civil courts show this to have been so.

The state retained its place as the administrator of Roman civil law but, while the King or godly magistrate and the courts of the Church shared out the duties which had been in the hands of the ecclesiastical hierarchy and the papal curia, the Church and society acted concertedly as they had done before 1560.

Such practice was similar to what had happened in Geneva, which was based on Calvin's teaching that the Church and State by virtue of their divine origin were obliged to observe the same law which came from

1. 'Sermons on Samuel' in Ioannis Calvini Opera. vol. xxix. p. 658 in Corpus Reformatorum (ed. G. Baum, E. Cunitz and E. Reuss) Brunswick, 1869-196.
2. cf. C.C.G. Webb, John of Salisbury, London, 1932. p. 69



God their common creator.<sup>1</sup>

The church in Scotland followed in the footsteps of the Continental reformers. 'L'Eglise calviniste a un statut propre, mais elle se constitue dans le cadre de l'Etat. L'Eglise n'est pas une Société indépendante, elle est une fonction de L'Etat chrétien, qui s'exerce sous son contrôle et sous sa direction. .... L'Eglise et L'Etat ne devaient former qu'un seul et même être dans leur soumission commune à la souveraineté exclusive de Dieu'.<sup>2</sup>

Until the appearance of Andrew Melville this was the theory which guided the Church in its formation of its General Assembly.

It would have been impossible for anyone in 1560 to have thought of representatives of the Church or representatives of the State being present in the Assembly. The commissioners were representatives of the people of God whether they were nobles, commissioners of burghs, synods, universities or shires. The pre-reformation organisation within Scotland, the Three Estates, the Convention of Royal Burghs, and the synods of the medieval church all made their mark on the Assembly. The

1. Sermon on Deuteronomy No. 104, Opera xxvii. p. 454-5

2. Georges de Lagarde, Recherches sur L'esprit politique de la Reforme, Paris, 1926. p. 358.

whole population was in Christ's Church and subject to its discipline and it was from all classes in society that the members of the Assembly were commissioned.

The Assembly of March, 1574, wrote 'the Lord Regents grace and the Lords of Privie Counsell, with vthers of the Estates conveynit with his Grace', 'It is also knowin vnto your Grace, that sen the tyme God blessed this countrey with the light of the Evangell, the haill Kirk maist godlie appointit, and the same be Act of Parliament authorized, that twa godlie Assemblies of the Haill General Kirk of this realme, sould be ever ilk yeir, asweill of all members therof in all Estates as of the Ministers: The whilk Assemblies hes bein sen the first ordinance, continually keipit in sick sort, that the most noble ther of the hiest Estates hes joynit themselves, be their awin presence in the Assemblies, as members of ane body, concurreand, voteand and autorizand in all their proceeding with their brether.'

The title used by the Church for its national council appeared for the first time in the minute of 25th June, 1563<sup>2</sup> and was imbued

1. B.U.K. p. 292.

2. Ibid. p. 31.

with such ideas. Prior to 1563 it had been called, 'the Assembly', 'the haill kirk' or 'the Convention of the Kirk of Scotland.' The name was taken from the Epistle to the Hebrews in which is stressed the priesthood of all believers and the place and purpose of all Christians participating in the redemptive work of Christ.<sup>2</sup> The comment of A.B. Davidson is worth noting in this connection. 'The word "general assembly" means a festal assembly (Gr. panegyris, the festal assembly of the whole nation, as at the Olympic Games.)'<sup>3</sup> Furthermore, it is not without significance that the words 'general assembly' occur in a passage stressing the danger of being an 'Esau, who for one morsel of meat sold his birthright.' The writer of this epistle points away from such things to 'the general assembly and church of the firstborn, which is written in heaven' to which 'ye are come.' This stress on the Christian task of striving to conform to a heavenly pattern would not be lost on the reformed Church steeped in the Bible.

The words 'General Assembly' were, for a time not kept

1. Ibid. pp. 7, 15, 16, 17, 18, 19, 20: 8: 13.

2. Chapter 12 v. 23.

3. A.B.Davidson, Epistle to the Hebrews. Edinburgh. n.d. p. 248.

Cf. Ezek. chap. 44. v. 24 and Zeph. chap. 3. v. 18 in the Septuagint.



exclusively as the name for the supreme court of the Church. It was sometimes used for the name of a congregational meeting<sup>1</sup> and for the general session.<sup>2</sup> While, at times, the word 'Assembly' was used in place of presbytery.<sup>3</sup>

The full title of the General Assembly which appeared in an Act of Parliament of 1567 - 'the generall assemblie of this haill Realme'<sup>4</sup> - summed up the ideal of what the reformers hoped that the Assembly would be.

There was also, legal considerations which governed the composition of the Assembly. It was, from its inception, the high court of the Church and in this way reflected the high court of parliament.

The most important aspect of the character of parliamentary government as seen in the Assembly were vital to its being accepted, and

1. The Buik of the Kirk of the Canagait. 1564-67. (ed. by A.B. Calderwood). Scottish Record Society. Edinburgh. 1961. passim.
2. 'Extracts from the Buik of the General Kirk of Edinburgh' in the Maitland Club Miscellany. vol. i. pp. 97-126 passim.
3. MS Kirk Session Records of Anstruther, Kilrenny and Pittenweem dated 22nd October, 1588 and 18th August, 1590.
4. A.P.S. vol. iii. p. 23.

to its survival, as a legal, as well as ecclesiastical national institution. The first was the high court character of the Assembly, identical to that of parliament.<sup>1</sup> It was, from the outset, the supreme council of the church acting in the plenitude of its power and thus ruling as the highest court of the realm equivalent to parliament. However, the plenitude of power of the Assembly was related to the Kingship of Christ and not, as in parliament, to any theory of kingship<sup>2</sup> or king's council.<sup>3</sup> The second was that the plenitude of power of the Assembly was not only the outcome of the high court theory but that within the Assembly, as in parliament, there were commissioners endowed with full power and thereby every Scot was legally understood to be present. As a result of this the

1. For a discussion of this aspect of parliamentary government cf.

R.S. Rait, The Parliaments of Scotland, Glasgow, 1924. pp. 452-458 and C.H. McIlwain, The High Court of Parliament. New Haven, 1910.

2. F. Kern, Kingship and law in the Middle Ages. I. The divine right of resistance in the early Middle Ages. (trans. with an introduction by S.B. Chrimes) Oxford, 1939 and Kingship, Law and Constitution in the Middle Ages. (trans. S.B. Chrimes) Oxford, 1949.

3. Rait, op. cit. p. 135 et. seq. and J.F. Baldwin, The King's Council in England during the Middle Ages. Oxford, 1913.

consent of the Commissioners was legally taken to be the consent of everyone in Scotland.'

In this connection it should be noted that there was not normally any appeal from the General Assembly to Parliament. As this practice was well established before the appearance of the two kingdom theory the reason for this must have been that the legal status of the Assembly was established in Scotland on the same basis as Parliament.

1. On this matter Cf. J.G. Edwards, 'The Plena Potestas of English Parliamentary Representatives' in Oxford Essays in Medieval History presented to H.E. Salter. Oxford, 1934. pp. 141-154 especially pp. 152-154. Gaines Post, 'Plena Potestas and Consent in Medieval assemblies' in Traditio. vol. i. pp. 355-408 and M.V. Medieval Representation and Consent. London, 1936.



# The Assembly and 'the higher Poweris'.

The Church's attitude to the civil powers was not a fixed doctrine during the period under consideration. It varied from time to time because of the continually changing political situation and on account of the different schools of thought within the Church and the State which were always competing for control in the Assembly. The varying doctrines were maintained not only because of basic presuppositions but because of the interests which were being supported. 'Political doctrines have usually been put forward not in their own interest, but to bolster up some cause.'

The earliest ideas current amongst the Scottish reformers prior to 1560 show that there was no change in their political theory from that commonly held during the Middle Ages. Their conception of one integrated society was a basic principle and had been taken over

1. The Political Works of James I. (edited with an introduction by C. H. McIlwain) Cambridge. Mass. 1918. p. xix.

from medieval thought uncriticised and unchanged.<sup>1</sup> This united community was to be the outcome of the Church and State working together under the guidance of God. Knox's ideal, at the beginning of the reformation in Scotland, was that the Church and State were two aspects of the one Christian commonwealth.<sup>2</sup> There was, of course, a

1. The comment of A.P. D'Entreves on the political outlook of Thomas Aquinas could be applied to Scotland at that time. 'St. Thomas does not conceive of a relation between two different societies, between state and church in any modern sense but of a distinction of functions (gubernatione, regimina, ministeria, potestates). We are entirely on the lines of what historians have called the Gelasian doctrine of the distinction and inter-relation of the two great spheres of human life within one single society - the christian society, the respublica christiana'. Aquinas - Select Political Writings. Oxford, 1948. p. xxi.
2. This is a recurring phrase in Knox's writings and, while not peculiar to him, it had a special significance for him. The word 'commonwealth' conveyed to him the ideal underlying the phrase 'the commonwealth of Israel' in the Epistle to the Ephesians, chapter 2, verse 12 which is described in verses 19 to 22. 'Now therefore ye are no more strangers and foreigners, but fellow citizens with the saints, and of the household of God; and are

built upon the foundation of the apostles and prophets, Jesus Christ himself being the chief corner-stone; in whom all the building fitly framed together, groweth unto an holy temple in the Lord: in whom ye also are builded together for an habitation of God through the Spirit.' This describes Knox's political ideal which was always in his mind. 'I pray God', he said to Mary Queen of Scots, 'that ye may be blessed within the Commonwealth of Scotland, if it be the pleasure of God, as ever Deborah was in the Commonwealth of Israel.' (J.Knox, History of the Reformation in Scotland. (ed. W.Croft Dickinson) Edinburgh, 1949. vol. ii. p. 20.) When Knox was in Geneva from March 1557 until February, 1559, Calvin preached on the Epistle to the Ephesians every Sunday morning and afternoon from 15th May, 1558. (Corpus Reformatorum. vol. xlix. p. 82 quoted by Erwin Mülhaupt, Die Predigt Calvins, ihre Geschichte, ihre Form, und ihre religiösen Grundgedanken, Berlin und Leipzig. 1931. p. 14). Behind such Biblically inspired thoughts, he may well have been influenced by such a man as Robert Crowley (c.1518-1588) whom he almost certainly knew in Frankfort. Crowley's ideas on 'the commonwealth' probably co-incided very largely with Knox's political theory before 1558 and would seem to have remained in the background of his mind throughout his life. (Cf. J.W. Allan, A History of Political Thought in the Sixteenth Century. London, 1928, pp. 138-142.)



subtle difference in that instead of the Pope exercising universal authority over the whole of Christendom, the Church was obedient to the 'godly Prince.' The national 'godly Prince' was the ultimate authority. Knox maintained that 'we affirme that na power on earth is above the power of the Civill reular; that everie saule, be he Pope or Cardinall, aught to be subject to the higher Poweris. That thair commandementis, not repugnyng to godis glorie and honour, aught to be obeyit, evin with the great loss of temporall thingis.'<sup>1</sup> and 'with Tertuliam, we affirme, that the emperour and everie Prince within his awn domiouns, hath his haill autoritie of God and is inferiour to none but to God onlie. And farther, that neither Bischope, Cadinall, nor Pope, aught more to be exemptit frome giveing obedience, paying tribut, and of other dewteis aperteanyng to Kingis, than ar the commoun sort of peple.'<sup>2</sup> This statement, dating from the time of his imprisonment in France, which was from August, 1547 until February or March, 1549,<sup>3</sup> demonstrates the conception of the

1. The Works of John Knox (collected and ed. by D.Laing) Edinburgh, 1846-64, vol. iv. p. 324.

2. Ibid. vol. iv. p. 325.

3. P. Hume Brown, John Knox. A Biography, London. 1895. vol.1. p. 88. n.1.

oneness of the Church and State under the headship of the 'godly Prince.' Although this doctrine was departed from by Knox for some time, it returned to be one of the guiding principles of the reforming movement in Scotland. This is quite obvious from the supplication from 'the Barons, Gentlemen, Burgesses and others' presented to 'the Nobility and Estates of Parliament' in 1560.<sup>1</sup>

The basic principle was written into the doctrinal statement of the Scottish reformation<sup>2</sup> and the system of ecclesiastical organisation envisaged by the reformers<sup>3</sup> both of which they hoped would be enforced upon the whole nation.

1. Knox, History, vol. ii. pp. 335-8. For an account of Knox's early political theory, cf. Charles Martin, 'De la genèse des doctrines politiques de John Knox' in Société de l'histoire du protestantisme française. 1907, pp. 192-221.
2. Scots Confession, 1560. Chap. XXIV. 'On the Civile Magistrate.'
3. The Book of Discipline printed in Knox's History, vol. ii. pp. 280-325. IV (3), V (1), (3) and (4). Compare the Confession of Augsburgh. 25th June, 1530. Chap. XVI. 'De Rebus Civilibus' (Kidd, Documents illustrative of the Continental Reformation. Oxford, 1911. p. 266). Confession de la Foi .... de Genève. 27th April, 1537. para. 21. 'De Magistratu. (Ibid. p. 571). and Confessio Gallicana. 26th May, 1559. Art. 39 (Ibid. p. 672).

The doctrine of the 'godly Prince' was the same as that which was taught by all the continental reformers. Similarly, there was no thought of the Church and State existing without the other or standing over against each other. Calvin makes this quite clear. 'Let us realise that God rules the governments of the world, so that he means that there should be kings, princes, magistrates and men preeminent by their dignity who preside over others and bear the sword, and serve as God has ordained. And on the other hand let us recognise that God has constituted the Church a spiritual government, that of the preaching of the Word, to which all ought to be submissive, and against which no rebellion ought to be tolerated: all men of whatever condition must allow themselves to be governed by it, as sheep by a shepherd, hearing his voice only, and following him everywhere he calls them. These two orders, constituted by God are not at all repugnant, like water and fire, which are contrary: but these are matters conjoined, so that the one taken away, the other suffers much; as if we damage an eye in anyone, the other eye suffers seriously by the blow; so that if an arm is cut, the other suffers seriously, and cannot alone suffice for the work of the two.'



The parallel between the changes in political theory concerning church and state relations within the Roman Empire in the fourth century and those in Scotland in the sixteenth century is too important not to be mentioned. From the beginning of the reformation movement in Europe, the reformers were aware that the doctrine of the 'godly prince' had been the orthodox doctrine in the early church since the conversion of the Roman Emperor until the rise of the opinion which produced the forged Donation of Constantine. It was the emperor's duty and prerogative to be concerned about the welfare both of the church and state and he alone had the right to summon oecumenical councils and to preside over them in person or by proxy. He was definitely superior to the hierarchy of the church because of his being the heir to the ~~C~~esars, his mystical authority which was given to him by God at his coronation and on account of the fact that he was the source of law. All this is confirmed by the fact that the strength of the claim which the popes made, based on the forged Donation, lay in the belief that the Emperor Constantine had made it.<sup>1</sup>

1. Hendrik Berkhof, Kirche und Kaiser, Zürich. 1947.

Throughout the years following the reform of the church in Scotland much time was given to the study of the early church.<sup>1</sup> The Church was also well aware of the facts of history and the debates and discussions upon this period of history which had been a feature of the church's life on the continent and in England.

An other view, sometimes complimentary, but often held in opposition within Scotland, as elsewhere, to that of the 'godly prince', was the reformed principle of the 'godly magistrate'. This was used to good political effect to further the Scottish reformation. Calvin's doctrine of the 'godly magistrate' was directly applied to the nobles in whose hands lay the control of the affairs of the nation.

Calvin had a very high view of the magistrate. This is shown in his Institutes of the Christian Religion. 'When those who bear the office of magistrate are called gods, let no one suppose that there is little weight in that appellation. It is thereby intimated that they have a commission from God, that they are invested with divine authority, and, in fact represent the person of God, as whose

1. Cf. e.g. The works of Patrick Simson (1558-1618) noted in Select Biographies. (ed. W.K. Tweedie). Wodrow Society, Edinburgh, 1845. vol. i. pp. 75n-77n.

substitutes they in a manner act.'<sup>1</sup> 'In a word, if they remember that they are the vicereagents of God, it behoves them to watch with all care, diligence, and industry, that they may in themselves exhibit a kind of image of the Divine Providence, guardianship, goodness, benevolence, and justice.'<sup>2</sup> When, speaking of the magistracy sentencing to death, Calvin says, '..... how can magistrates be at one pious and yet shedders of blood? But if we understand that the magistrates, in inflicting punishment, acts not of himself, but executes the very judgments of God, we shall be disencumbered of every doubt.'<sup>3</sup>

Such thoughts were in the minds of the Scottish reformers.

The nobles were not just identified with the 'higher Poweris' ordained of God. They were 'the godly magistrates'. Knox in his Appellation made this quite clear in 1558. The nobility was those 'whome God hath appointed heades in your commune welth.'<sup>4</sup> Their duties were 'fyrst, That in conscience you are bounde to punysh malefactors, and to defende

1. Institutes of the Christian Religion. Book IV. chap. xx. para. 4.

2. Ibid. Book IV. chap. xx. para. 6.

3. Ibid. Book IV. chap. xx. para. 10.

4. Knox, Works. vol. iv. p. 480.



innocents, imploring your helpe. Secundarely, That God requireth of you to provide, that your subjects be rightly instructed in his true religion; and that the same by you be reformed whensoever abuses do crepe in, by malice of Satan, and negligence of men. And laste, That ye are bounde to remove from honour and to punish with death (if the crime so require) such as deceave the people, or defraude them of that foode of theyre soules, I meane God's lively Worde.<sup>1</sup> and 'that the Reformation of religion in all points, togither with the punishment of false teachers, doth appertaine to the power of the Civile Magistrate.'<sup>2</sup> The application of this theory upon the turbulent state of affairs in 1560 present problems due to Knox's having 'had a confused theory of the Scottish constitution'.<sup>3</sup> and no definite theological solution to many of the problems raised. The difficulties of attempting to link Knox's 'godly prince' with 'the godly magistrate' are insurmountable due to the definite change in his whole position by 1558 to that of rebellion

1. Ibid. vol. iv. pp. 481-2.

2. Ibid. vol. iv. pp. 490.

3. Allen, Political Thought in the Sixteenth Century. p. 111.

against the 'idolatrous sovereign'.<sup>1</sup> The change was a political necessity and 'Knox may be said to have provided the "ideology" of the revolution that, between 1558 and 1560, dealt the old order in Scotland blows from which it could never recover .... Knox was neither a clear nor a systematic thinker; .... but it seems clear that his purpose in 1559 was to bring down the "idolatrous" sovereignties he saw around him, and not to subvert sovereignty itself.'<sup>2</sup> It would appear that to him and the other reformers the Regent was recognised as being the chief magistrate in national politics and in whom they placed great hopes

1. J.H.Burns, 'The Political Ideas of the Scottish Reformation' in Aberdeen University Review. Aberdeen. 1955-56. vol. xxxvi. pp. 251-68, especially pp. 257-63. Although it is noticeable that by 1554 he was beginning to take up an attitude against 'the idolatrous sovereign' but he did not commit himself in print. This is shown, for example, in an omission from the printed text of a sentence which appeared in the manuscript of 'A Godly letter sent too the fyethfull in London ....' 'For all those that wold draw us from God (be they Kings or Quenes), being of the Devil's nature, are enemyis unto God that in such cases we declare our selves enemyis unto them.' (Knox, Works. vol. iii. p. 193 and n.2).
2. J.H.Burns, 'John Knox and Revolution 1558' in History Today. 1958, vol. viii. p. 573.

for the reformation of the Church.

The third and very powerful political position was the outcome of the reformation struggle in Scotland and the attitude of many of the reformers to Queen Mary and their tenacious adherence to their own principle which sprang from a definite theory of kingship. This doctrine of kingship was firmly held by the majority, until, at least, the end of the sixteenth century. A great section of the Church had very largely made up its mind upon this matter prior to the return of Mary, Queen of Scots from France and it was firmly entrenched before James commenced to rule his kingdom.

The doctrine of the place and purpose of the king, expressed by Andrew Melville in words of one syllable, had previously been established in the minds of most Scots by such men as John Craig and George Buchanan. The contentions of these men were not new and were derived primarily from certain strands of medieval thought and later expounded from Biblical exegesis.

The thinker who influenced George Buchanan was John Major who was his teacher at the university of St. Andrews.<sup>1</sup> Major's position



1. P.Hume Brown, George Buchanan. Humanist and Reformer. Edinburgh, 1890. p.41.



was quite clear before 1521 when he wrote, 'whence it is plain that kings are instituted for the good of the people, as the chief member of the whole body, and not conversely ... In the second place it follows that the whole people is above the king (quod totus populus est supra regem) and in some cases can depose him .... The king hath not that free power in his kingdom that I have over my books.'<sup>1</sup> This is not an isolated instance but only one of many statements of his expounding such a political philosophy.<sup>2</sup>

John Craig, in the debate in the General Assembly of June, 1564,<sup>3</sup> affirmed 'that princes are not only bound to keep laws and promises to

1. In Quartum (ed. 1521) fol. lxxvi. quoted in A History of Greater Britain. (ed. A. Constable) S.H.S. Edinburgh. 1892. p. 158 n.

2. cf. A History of Greater Britain pp. 158 and n. 213-5 and 219-220.

Also 'A Disputation on the Authority of a Council: Is the Pope Subject to Brotherly Correction by a General Council?' in Gersoni Opera Omnia. Antwerp. 1706. vol. ii. pp. 1132-7 where he takes as an agreed basis upon which to construct an argument that 'A King who squanders (his possessions), destroys the welfare of the State, and is incorrigible must be deposed by the community over which he rules.' (This translation is from Advocates of Reform from Wyclif to Erasmus. (ed. M. Spinka) London, 1953. p. 18 ).

3. For a full account of this debate cf. Knox, History. vol. ii. pp. 107-134. and Calderwood, History, vol. ii. pp. 250-280.

their subjects, but also, that in case they fail, they justly may be deposed; for the band betwix the Prince and the people is reciprocal.'

In support of such a contention he had earlier in the discussion cited what had been decided in the Congregation of the University of Bologna. 'That is, All Rulers, be they supreme or be they inferior, may and ought to be reformed or deposed by them by whom they are chosen, confirmed, or admitted to their office, as oft as they break that promise made by the oath to their subjects, because that their prince is no less bound by oath to their subjects, than are the subjects to their Prince, and therefore ought to be kept and reformed equally, according to the law and condition of the oath that is made of either party.'<sup>2</sup> This was sustained by the Rector of the University, Magister Thomas de Finola. This statement must have carried great weight in Scotland at that time due to such a pronouncement coming from the most

1. Knox, History, vol. ii. p. 132.

2. Ibid. Such ideas as those from Bologna had permeated Scottish society, before this date. Mary of Guise, the Queens Regent, was fully aware of such teaching when she maintained exactly the opposite in May, 1559. She stated, in Machiavellian terms, 'Princes must not so straitly be bound to keep their promises'. (Ibid. vol. i. p. 180). The Lords of the Congregation did not forget this remark. (Ibid. vol. i. p. 241.)

famous law school in the medieval world.<sup>1</sup> It was also important because it emanated from an intellectual background entirely different from the Parish of John Major.<sup>2</sup>

Thus such a political outlook was in Scotland long before the reformation and was found in the teaching of orthodox teachers; a theory which was taught with great conviction in continental universities where many of the best Scottish students graduated before ever being

1. It must never be forgotten that Roman Canon Law continued to influence the life of Scotland to a very great extent until long after the reformation. cf. e.g. The Sources and Literature of Scots Law. by various authors. Stair Soc. Edinburgh. 1936. pp. 148 and 188 and An Introduction to Scottish Legal History. Edinburgh. 1958 pp. 83-4. Applicants for the full status of advocates usually mentioned that they had studied, very often in a foreign university, both canon and civil law. The first candidate who made no mention of having read canon law did not appear until 1598. R.K. Hannay, The College of Justice. Edinburgh. 1933. pp. 146-7.
2. 'Bologna was absorbed with the questions about Investiture, about the relations of Papacy and Empire, Church and State, feudalism and civic liberty, while the schools of France were distracted by questions about the unity of intellect, about Transubstantiation, about the reality of universals'. (H. Rashdall, The Universities of Europe in the Middle Ages. (new edition). Oxford. 1936. vol.1. p.137.



taught in Scotland itself.

It is also interesting that this co-incided with the theory underlying the medieval Scottish constitution. Mackinnon has shown that 'in so far as there is a theory-' 'the king derives his right to rule from the people. It is not merely a doctrine of the schools elaborated in the course of the long struggle between the medieval popes and the medieval emperors. It finds expression in important State documents of the reign of Robert I. In a Declaration of the Scottish clergy, assembled in Council at Dundee in 1309 in support of Robert Bruce, the people are said to have chosen Bruce to be king on the ground of his right of blood and his ability to defend the kingdom ..... With their concurrence and consent he had been chosen king, and set over the kingdom. The Declaration is not, indeed, an expression of the national will, inasmuch as it expresses only the mind of the clergy. The barons are significantly ignored.' But, 'in 1318 the voice of the barons of Scotland made itself heard with equal emphasis in the famous letter to

1. J. Mackinnon, The Constitutional History of Scotland from Early Times to the Reformation, London, 1924. p. 188 and Facsimiles of the National Manuscripts of Scotland. photozincographed by H. James. Part II. Edinburgh. 1870. p. 12. No. XVII.

the pope indited from Arbroath Abbey. In this document the barons profess the same constitutional doctrine as the clergy in 1309. Robert Bruce is King of Scotland by right of succession, his own merits, and "the assent and consent of all of us". His government they will maintain to the death. If, however, he were to desist from his enterprise and seek to subject the kingdom to the English, they would immediately expel him as a subverter of his own rights and theirs, and make another their king who should be able to defend them'.<sup>1</sup> The theory by which the crown derives its authority from the people and rules by its agreement and consent also underlies the regulation of the succession of 1318.<sup>2</sup>

The Scottish reformers did not adopt such political opinions because they had originally been formulated by the great agitator for reform, Marsiglio de Maynardino of Padua, who was the first who had 'clearly in mind, as a perfectly normal feature of monarchy, a preference for something like a modern "limited monarchy".<sup>3</sup> Nor were they driven to

1. J. Mackinnon, op. cit. p. 189 and Nat. MS of Scot. vol. ii. p. 17.

2. A.P.S. vol. 1. p. 105-6.

3. C.H. McIlwain, The Growth of Political Thought in the West. New York. 1932. p. 308.



them because of Thomas Aquinas' theory of monarchy being almost completely opposite to that maintained by Marsiglio.<sup>1</sup> Nor did they take over this aspect of their political theory from the continental reformers, as such ideas, except probably in France, would have been looked upon as Anabaptist inspired.<sup>2</sup> They firmly believed that their position was based securely on Biblical exegesis although they were, without a doubt, influenced by such theories as those mentioned above. This is graphically demonstrated by John Knox in his self-reported speeches in the Assembly of June, 1564, where numerous appeals to Scripture are made in support of the thesis that subjects not only may, but also ought to withstand and resist their princes, whenever they do anything that is expressly opposed to God, His law or holy ordinance.<sup>3</sup>

As has been stated Knox was not always as sure about his views which, in 1564, co-incided with the statements of John Craig and the political theories of George Buchanan. He had arrived at his position

1. Ibid. p. 330 et seq.

2. 'But should those to whom the Lord has assigned one form of government, take it upon them anxiously to long for a change, the wish would not only be foolish and superfluous, but very pernicious'. J. Calvin Institutes. Book IV. chap. xx. 8.

3. Knox. History, vol. ii. p. 127 and cf. pp. 108-131.



not only by closely studying the ideas of the continental reformers<sup>1</sup> but by attempting to seek after what he believed to be God's will for his people. He was not a thinker, he was a prophet. His belief that it was the duty of subjects, when compelled by circumstances, 'to seek the extreme remedy' against 'unjust tyranny'<sup>2</sup> was the underlying thesis of Book II of his History of the Reformation in Scotland.<sup>3</sup> This Book was 'a piece of special pleading' and not merely history.<sup>4</sup> His position is summed up in the closing sentence of 'To the Nobility, Burghs, and Community of this Realm of Scotland, the Lords, Barons, and others, Brethren of the Christian Congregation' of September, 1559.<sup>5</sup> Knox drafted this and in it he quotes from a sermon which was undoubtedly

1. His familiarity with many writers on the subject is shown by his replies made, according to his own record, extemporaneously in the debate with Maitland of Lethington who had quoted from Martin Luther, Philip Melanchthon, Martin Bucer, Wolfgang Musculus and John Calvin. Knox replied by fitting their remarks into their contexts and refuting the thesis built upon the quotations. Knox, History. vol. ii. p. 121.
2. Ibid. vol. i. p. 196.
3. Ibid. vol. i. pp. xli-iii.
4. Ibid. vol. i. pp. lxxx and lxxxix.
5. Ibid. vol. i. pp. 219-228.

his own.<sup>1</sup> 'Now if the like or greater corruptions be in the world this day, who dare enterprise to put silence to the Spirit of God, which (will) not be subject to the appetites of wicked Princes?'<sup>2</sup>

Knox's political theory was not peculiar to himself and there is no doubt that his views were the result not only of his experiences and reading but the outcome of discussions between him and Christopher Goodman. From the time of the publication of The First Blast against the monstrous regiment and empire of women their outlook was the same. This is shown in Goodman's How Superior Powers ought to be obeyd of their Subjects; and wherin they may lawfully, by Gods Worde, be disobeyed and resisted. Wherin also is declared the cause of all this present miserie in England, and the onely way to remedy the same,<sup>3</sup> which was published in the same year as Knox's controversial work. He and Knox had been together for some years first at Frankfort and then in Geneva.

Another important person of influence in Scotland who had

1. Ibid. vol. i. p. lxviii.

2. Ibid. vol. i. p. 228.

3. Printed by John Crispin at Geneva in 1558.

supported this theory, some years before Knox or Goodman, was John Willock.<sup>1</sup> He, as has been recently noted,<sup>2</sup> was involved in the rising against Mary Tudor for which his patron Henry, Duke of Suffolk, paid the supreme penalty in 1554.<sup>3</sup> He was in Emden for some time and while employed on embassies for Anne of Friesland, sought to further the cause of the reformers. It is not without significance that some of the pamphlets referred to in this chapter, including Knox's, were printed in Emden.<sup>4</sup> He and John Knox possibly met for the first time during the first half of 1551 when he was preaching in the borders<sup>5</sup> and Knox was in Berwick and then Newcastle.<sup>6</sup> They met again in Montrose

1. For some details of Willock cf. Wodrow Miscellany, vol. i. pp. 261-4.
2. J. Durkan, 'The Cultural Background to Sixteenth-Century Scotland.' in Innes Review. vol. x. p. 421.
3. Calendar of Patent Rolls. Philip and Mary, 1553-54, vol. i. p. 381 and vol. iii. 1555-57. p. 44.
4. F. Isaac, 'Egidius van der Erve and his English Printed Books', in The Library. 4th Series. vol. xii. pp. 337, 341.
5. Original Letters relative to the English Reformation (ed. H. Robinson). Parker Society. Cambridge, 1846. pp. 428-9 and 431.
6. He left Berwick for Newcastle early in 1551 (Knox, Works. vol. i. p. 110 and Hume Brown, Knox. vol. i. p. 113.)



at the house of John Erskine of Dun in 1555.<sup>1</sup> It is therefore understandable that Willock's statement made on 21st October, 1559 to the 'whole Nobility, Baron, and Burghs'<sup>2</sup> and which was requested before Knox's opinion was asked, is exactly the same as the others.<sup>3</sup> The fact that Willock was asked first and furthermore that Knox has recorded this fact, emphasises the very central place in reformed church life which Willock occupied in Scotland from the time of his return in 1558.<sup>4</sup> This is confirmed when it is noted that he was appointed moderator of the first four General Assemblies which had a moderator.<sup>5</sup> His great contribution to the Church in Scotland in the decade from 1558 has never been fully appreciated by historians. This is probably due to his withdrawal to his rectory at Loughborough, he never returned to Scotland after 1569, which may point to some tension existing between him and some within the Church in Scotland.

Calvin at the time, although probably not supporting their views on rebellion, agreed to some extent with the views expressed regarding

1. Knox, History, vol. i. p. 120.

2. Ibid. vol. i. p. 249.

3. Ibid. vol. i. p. 250.

4. Ibid. vol. i. p. 148.

5. Calderwood, History, vol. viii. p. 306.

female sovereigns. Writing to Sir William Cecil in January, 1559 in connection with this matter, he said that the government by women 'was a deviation from the original and proper order of nature, it was to be ranked, no less than slavery, among the punishments consequent upon the fall of man; but that there were occasionally women so endowed that the singular good qualities which shone forth in them, made it evident that they were raised up by divine authority; either that God designed by such examples to condemn the inactivity of men, or for the better setting forth his own glory.' It is doubtful if he ever indicated to Knox, to whom the foregoing opinion was first given, that Mary Tudor was one 'raised up by divine authority'.

The two pamphlets influenced many and re-enforced the doctrine of righteous rebellion. They also gave rise to an answer published anonymously at Strassburg in April, 1559 by John Aylmer, later bishop of London, entitled' An Harborowe for Faithfull and Trewe Subjectes, agaynst the late blowne Blaste, concerninge the Government of Women.'<sup>2</sup>

Aylmer's work does not appear to have had any effect on political

1. The Zurich Letters (Second Series) 1558-1602. (ed. by H. Robinson). Cambridge. 1845. pp. 34-5.

2. For a short account of John Aylmer cf. Knox, Works. vol.iv. pp. 354-6.

thought in Scotland. The only person who mentioned it was Knox himself. He referred to the book on two occasions, once when writing to Cecil<sup>1</sup> and the other during the 'first reasoning between the Queen and John Knox', but even he had not read it.<sup>2</sup>

The same thesis expounded by Knox and Goodman in Biblical terms was produced by George Buchanan in a book influenced by contemporary philosophical thought which had its roots in the Middle Ages. The Scottish legal tradition also contributed something to this work which was sharpened by contemporary events ..... 'when Amongst us Affaires were very turbulent'.<sup>3</sup>

'De Jure Regni apud Scotos Dialogus' was written about 1570 but was not published until 1579 when John Ross, Edinburgh printed two editions.<sup>4</sup> It set forth in dialogue form Buchanan's doctrine of 'what

1. Knox, History. vol. i. pp. 290-1.
2. Ibid. vol. ii. p. 14.
3. De Jure Regni. p. A. 4. r. (1680 English translation)
4. H.G. Aldis, A List of Books printed in Scotland before 1700. Edinburgh, 1904. Nos. 156 and 157. Another issue of 1579 with a new title page was published in the following year. (Aldis 164), while two editions in 1580 and 1581 were printed most probably in London. (R. Dickson and J.P. Edmond, Annals of Scottish Printing. Cambridge, 1890. p. 344).



Authority both Kings and people have one of another.' Except for two Roman Catholic replies published abroad,<sup>2</sup> this book remained the only reasoned statement until Sir George Mackenzie wrote Jus Regium or Monarchy vindicated against Buchanan, Naphtali, Dolman, Milton etc. published in London in 1684.

In the Articles presented by the Assembly to the Parliament of December, 1567, it was clearly stated that the relations between prince and subjects was in the nature of a contract with mutual obligations. In the Act of Parliament issued as a result, the sovereign was bound by his coronation oath to 'mantene the trew Religioun of Jesus Christ, the preicheing of his haly word, and dew and rycht ministratioun of the Sacramentis now ressaifit, and preichit within this Realme: And sall abolische, and gainstand all fals Religioun, contrare to the samin; And sall reule the pepill committit to thair charge, according to the will and command of God, reuelit in his foirsaid word, and according to the

1. De Jure Regni. p. A. 4. r.

2. Adam Blackwood, Adversus Georgii Buchanani Dialogum de Jure Regni apud Scotos, pro Regibus Apologia, Poitiers. 1581. William Barclay, De Regno et Regula Potestatis adversus Buchananum, Brutum, Boucherium et reliquos Monarchomachos. Paris, 1600

louabill, Lawis, and constitutiounis ressaifit in this Realme, nawyse repugnant to the said word of the Eternall God: And sall procure to the vttermaist of thair power, to the Kirk of God, and haill cristaine pepil, trew and perfyte peice in all tyme cuming: The rychtis and rentis, with all iust priuilligeis, of the Crowne of Scotland, to preserue and keip inuiolatit, nouthir sal thay transfer nor alienat the samin ... And that they sall faithfullie affirme the thingis abone writtin by thair solempnit aith.'

In practical politics a considerable number of divines and state councillors departed from Buchanan's theory from the time of the condemnation of the De Jure Regni by Parliament in 1584.<sup>2</sup> Yet its basic claims still continued to be held by a large number of men in the Church and they remained to influence men's minds long after the period under consideration.<sup>3</sup>

1. A.P.S. vol. iii. pp. 23-24.

2. Ibid. vol. iii. p. 296.

3. The circulation of MS translation of De Jure Regni was prohibited in proclamations of the Privy Council on 29th April, 1664 and on 15th August, 1688 it is listed among books and pamphlets which all are forbidden 'to bring home, vend or sell, disperse or lend'. (R. Wodrow, History of the Sufferings of the Church of Scotland. (ed. R. Burns). Glasgow. 1828. vol. i. pp. 416 and 443n-444n). A printed English translation by Philalethes appeared in 1680.

Thus, from its origin, there were five main ideas within the Assembly which always claimed some following within the Church. These were, the conception of one integrated society, the 'godly prince', the 'godly magistrate', the right of rebellion against a tyrant and the reciprocal contract between ruler and people. With each of these theories in the minds of some of the members of the General Assembly, there was never any agreed theological principle guiding the Church's attitude to the state authorities.

This division of outlook with its resultant lack of co-ordination within the Church was a legacy of the Middle Ages which was only thrown into bolder relief at the reformation. 'As is familiar, three positions were taken up during the central period of the middle ages on this point by different groups. There was the old and so-called Gelasian theory of the two powers, spiritual and temporal, ordained by God for the two spheres of human life; there was the extreme papal position, adumbrated by Gregory VII but not fully developed before Innocent III, that the spiritual power stood to the temporal as the sun to the moon, and that the temporal power had been delegated by the popes to the Emperor or to monarchs either by a historical gift or by sufferance; and there was,



thirdly, the imperial reaction to such claims, issuing in the counter-claim that the Emperor not only derived his power directly from God, but that his authority was in a sense superior to the spiritual. It will be remembered that the first - the Gelasian - view had by the twelfth century become somewhat modified and confused. Its original author had conceived the two powers as existing side by side in the world. Later by an almost imperceptible and perhaps unconscious change, they were regarded as existing side by side in the Church - a far more difficult conception.'

The status of the Assembly was always insecure and uncertain until long after the end of the sixteenth century. This was the result of the varying policies of the secular power, whether it was in the hands of the Crown, the Regent or the Privy Council, and the indecision of the General Assembly regarding its own position under such unstable conditions.

The ever-changing political scene, arising out of the state of the country and Europe as a whole, the economic problems of the crown, the intrigues of the papalists, the variable personal attitude of

1. David Knowles, The Episcopal Collegues of Archbishop Thomas Becket.

Cambridge. 1951. p. 146.

the regent or the king and the empirical attitude toward church and state relations, the precarious religious situation at home and abroad, the lack of theological enquiry and the large amount of routine work which had to be done by the minute number of ministers, made it impossible for the Church to deliberate and formulate a definite doctrine on Church and State relations. The Assembly fumbled after a practical solution but it never faced the radical theological basis required in the Church before it attempted to work out a definite arrangement with the State.

Nevertheless, in spite of the fragmentated political outlook of the Church, the groups within the Assembly and those which oscillated between one group and another, it must be remembered their great common Weltanschauung: 'they took for granted the common life of Christendom, that the fabric of life without which the Turk, within which the Jew, the heretic and the unbelievers were the only insoluble elements. Even where, with the new emphasis on the Koinonia of the Gemeinde, the community of believers, the Reformers altered the emphasis of the doctrine of the Church, they still thought in terms of a Volkskirche.' There remained

1. E.G. Rupp, Studies in the Making of the English Protestant Tradition.

Cambridge. 1947. p. 83.

a unity of outlook despite ideological differences. This is seen when Knox conceived his 'travail' to be 'that both princes and subjects obey God'.<sup>1</sup> The goal was a theocracy<sup>2</sup> and the methods by which the reformers hoped to attain this were never really thought out and this gave rise to the problems.

1. Knox, History. vol. ii. p. 17.

2. For the Genevan outlook cf. Eugene Choisy, La Théocratie à Genève au temps de Calvin, Geneva. 1897.



# The Crown, the Regent and the Privy Council.

'No valid meeting of Parliament, Genral Council or Convention of Estates could take place without the presence of the monarch or of a representative duly accredited to represent him'. This statement could have been applied equally well to the theory which lay behind the General Assembly. The reformers hoped that the reformation would eventually be brought to completion with the earnest assistance of the crown, even although in 1560 that was, for the time being, impossible. They did not lose hope for some time that this might happen and their early organisation reveals this.

That the early General Assemblies were not complete in composition is quite clear from the action taken by the reformers at a later date. There was no 'godly prince' present. No doubt it was hoped that such an one would appear soon after the death of Mary of Guise, the Queen Regent. By the time the Assembly of July, 1562 met such hopes had faded. It wrote to the Queen, 'we find us frustrat of our hope and expectatioun; quhilk was, that in processe of tyme your Graces hart sould have been mollified, so far as that ye wald have hard the publict doctrine taught within this

Realme; by the quhilk, our farther hope was, that Gods Halie Spirit  
 sould so have moved your hairt, that ye wald have suffered your  
 religioun (quhilk before God is nothing bot abominatioun and vanitie)  
 to have bene tryed by the trew tuich-stane, the written word of God;  
 and that your Grace finding it to have no ground nor foundation in the  
 same, suld have gevin that glory unto God, that ye wald have prefered  
 his treuth unto your own preconceived vain opinion, of quhat antiquitie  
 that ever it hes bene. Quhareof we in a part now disappointed, can  
 no longer keape silence, unless we sald mak our selfis criminall befoir  
 God of your blude, perisching in your own iniquitie; for we planely  
 admonische you<sup>r</sup> of the dangers to cum.'

These were no empty words. Many had hoped that she would forsake the Church of Rome. In August, 1561, some members of the Privy Council were confident of this. 'We doubt not but that she shall leave it (the Mass). If we were not assured that she might be won, we should be so great enemies to her Mass as ye should be. Her uncles will depart, and then shall we rule all at our pleasure'.<sup>2</sup> So reports

1. B.U.K. p. 21 and Knox, History, vol. ii. pp. 48-9.

2. Knox, History, vol. ii. p. 9.

John Knox. He, writing of events in the same month, says, 'For the Queen's flattering words, upon the one part, ever still crying, "Conscience, conscience: it is a sore thing to constrain the conscience;" and the subtle persuasions of her supposts (we mean even of such as sometimes were judged most fervent with us) upon the other part, blinded all men, and put them to this opinion: she will be content to hear the preaching, and so no doubt but she may be won.'<sup>1</sup> The idea of the Queen's possible change to the reformed faith was sincerely held by many and is mentioned in diplomatic correspondence.<sup>2</sup>

The reformers could not permit her to attend the Assembly while she remained outside the Church and in December, 1561 it was decided by the Assembly 'to counsell her Grace, if she were jealous of anie thing to be treated to send suche as she would appoint to heare.'<sup>3</sup> She was debarred from participation in the Assembly until she could be accounted 'a godly prince': for the same reason she could not send a Commissioner.

1. Ibid. vol. ii. p. 12.

2. Calendar of State Papers, Foreign. Elizabeth. vol. iv. pp. 353 and 379 and cf. pp. 512 and 523 regarding the report of Mary being advised by the Cardinal of Lorraine to embrace the religion of England.

3. Calderwood, History, vol. ii. p. 160 and Knox, History, vol. ii. p. 27.



The Assembly, after their Supplication of July, 1562, which was presented by the superintendents of Lothian and Fife,<sup>1</sup> having had no apparent effect on the Queen, may have begun to consider the possibility of going its own way with the Privy Council - 'the godly magistrates' - taking the place of the 'godly prince'.

This appeal to the 'godly magistrate' when the Queen failed to become 'godly' became the obvious thing to do. Such a procedure, originally propounded by John Ponet,<sup>2</sup> was outlined in Goodman's How Superior Powers Oght To be Obeyd<sup>3</sup> and was taught by Knox as has already been shown.<sup>4</sup> Having given Mary some time to decide what her position was going to be in the reformed Church in Scotland, the Assembly began to turn to the Privy Council to find a solution to the constitutional

1. Petrie, History, p. 232.

2. John Ponet, A Shorte Treatise of politike pouuer, and of the true Obedience which subiectes owe to kynges and other ciuile Gouvernours, with an Exhortacion to all true naturall Englishe men. 1556. Facsimile reproduction appended to W.S. Hudson, John Ponet (1516?-1556) Advocate of Limited Monarchy. Chicago, 1942.

3. C. Goodman, How Superior Powers Oght To Be Obeyd. 1558. Reproduced with a bibliographical note by C.H. McIlwain. Facsimile Text Society New York, 1931. pp. 34-8.

4. Supra pp. 57-9.

problem involved.

The Assembly did not immediately move away from the idea of the possible participation of the Queen to the incorporation into the Assembly of the Privy Council. It appears that the Assembly waited until after the Parliament which met at Edinburgh on 4th June, 1563<sup>1</sup> as there is no record of the Council as such being present at the Assembly which met on 25th December, 1562. The Parliament did not fulfil the hopes which had been placed in it by the Assembly, the Privy Council did little to further the policies of the reformers at this meeting of the Three Estates and the Church was extremely disappointed in the failure of the 'godly magistrates' to pass the Book of Discipline into law.<sup>2</sup> There is, therefore, no explanation for the presence of the 'Lords, Comptroller, Justice Clerk, and Clerk of Register' who were minuted as 'beand all present' on 25th June, 1563 at the General Assembly which met at Perth<sup>3</sup> except that there was a real constitutional doctrine motivating the Assembly. This is clearly demonstrated at the following Assembly of December, 1563 which was the important one. The Privy Council was present for the first

1. A.P.S. vol. ii. p. 535.

2. Knox, History, vol. ii. pp. 27-28.

3. B.U.K. p. 33.

time, according to the minutes,<sup>1</sup> and the 'Lords of the Secret Counsell, with the haill brethren of the Assemblie, appointit Mr Johne Willick, Superintendent of the West, moderator dureing this Assemblie.'<sup>2</sup> These two things happening together were not co-incidental. This Assembly accepted the 'godly Magistrate' in place of the 'godly prince' and the Privy Council, in the absence of the monarch and the Royal Commissioner, which might have provided a chairman from among their number, with the other members of the Assembly appointed the first moderator.

The outcome of the proceedings of the meeting of the Three Estates on 26th May, 1563 was the final cause of the change in the constitution of the General Assembly brought about during the year of 1563. This meeting of the Estates was the first since 1560 and there were high hopes in ecclesiastical circles that the Queen would ensure that the Parliament would take up a stronger position against the papists and that the Church's status would be strengthened.<sup>3</sup> This did not happen. There were several Acts passed which affected the Church but those, concerned with manes

1. Ibid. p. 38 gives the names of the Privy Council who were present.

2. Ibid.

3. Knox, History, vol. ii. p. 74.



and glebes and the repairing of churches and churchyards, were so worded that even they did not really help to solve the problems with which they were framed to deal. Knox remarks that 'the acts against adultery, and for the manses and glebes, were so modified that no law and such law might stand in eodem predicamento: to speak plain, no law and such Acts were both alike.'

It was therefore in 1563 that the Church finally abandoned all hope of succeeding to convert the Queen so that on her becoming 'godly' she could play her part in the furthering of the reformation of the Church. The support of the 'godly magistrate' was the obvious sequel and the Church felt that in such hands the future might be more secure especially after the Privy Council's action, four days before the December General Assembly of that eventful year, in acquitting Knox of treason. This stand by the Privy Council against the Romanising of the Queen seemed to augur well for the future.<sup>2</sup>

From this date, it was deemed necessary to have the Privy Council

1. Knox, History, vol. ii. pp. 79-80. The Act against adultery seems to have been severe enough. (A.P.S. vol. ii. p. 539).
2. Ibid. vol. ii. pp. 93-99.

present to complete the membership of the Assembly. The Privy Council was quite definitely absent from the next two Assemblies but Walter Lundie of Lundie and John Spottiswood were appointed to ask the Privy Council 'to assist the Assemblie with their presence and counsell.'<sup>1</sup> William Wallace of Carnall and Andrew Ker of Fadownside were commissioned to do the same at the following Assembly.<sup>2</sup> The pressure to have the Privy Council as an essential part of the Generall Assembly came from the Church itself.

Although the Privy Council was favourably disposed to the Church, during the next year or so it did not take the place within the General Assembly which it had been proffered. There is no mention in the minutes of its participation and the Assembly seems to have resigned itself temporarily to this state of affairs as it did not continue to send commissioners to the Council requesting its attendance. The position was, however, that the Privy Council was cautiously co-operating with the Assembly and some of its members attended<sup>3</sup> although it is almost

1. B.U.K. p. 46.

2. Ibid. p. 52.

3. Knox, History. vol. ii. pp. 108-34.

certain that they did not participate in the official constitutional way in which the Assembly desired. This was in keeping with the general policy of the government towards the Church at that time.

The situation changed in December, 1564, when the Queen restored Matthew, earl of Lennox, to all his honours and estates,<sup>1</sup> and on 28th January of the following year proclaimed her intended marriage with Henry, Lord Darnley.<sup>2</sup> The majority of the Privy Council was opposed to the changes in policy which were soon initiated by the Queen. It was from this time that statesmen sympathetic to the reformed cause turned to the Assembly to find an organisation favourable to the prosecution of their own plans. At the Assembly of June, 1565, some members of the nobility were present but no names are mentioned in the records.<sup>3</sup> The marriage of Mary and Darnley which followed on 29th July, celebrated in the Chapel Royal at Holyrood according to the rites of the Church of

1. Selections from unpublished manuscripts in the College of Arms and the British Museum illustrating the reign of Mary Queen of Scotland. MDXLIII-MDLXVIII. Edited by J. Stevenson. Maitland Club. Glasgow, 1837. p. 111.
2. National MSS. of Scotland. vol. iii. No. XLVIII.
3. B.U.K. p. 58.



Rome,<sup>1</sup> was the final blow to the hopes of those who had considered some via media possible in the perplexingly confused political situation.

'That the marriage marked the end of compromise. To the Hamiltons, it meant the preferment of the Lennox-Stewarts and the ruin of their hopes of royalty; to Moray, it meant an end of influence and power; and to Lethington it was an end to all his hopes of 'sweet reasonableness'. But to Knox the union of Mary and Darnley was a union of Roman Catholics and an open threat to the 'true religion' ..... For now, with her marriage settled, Mary seized the opportunity to assert herself against the preachers and the politicians alike.'<sup>2</sup>

Many of the nobles were now quite in favour of support of the General Assembly and had been in no way reassured by the 'Assurance touart the state or religion' which had been passed by the Privy Council on 12th July.<sup>3</sup> The crisis which Mary had to face began with the outlawing of Moray on 6th August<sup>4</sup> and continued until the end of the Runabout Raid two months later when Châtelherault, Moray, Glencairn, Rothes and Boyd

1. Diurnal of Occurrents. p. 80.

2. Knox, History. vol. i. pp. lxi-ii.

3. R.P.C. vol. i. p. 338.

4. Ibid. vol. 1. pp. 349-50.

retreated to Carlisle.<sup>1</sup>

In spite of the apparent success of the Queen, the Church did not find itself without support. In December, at the Assembly which proclaimed a fast for the shame and backsliding of the nation, Sir John Bellenden of Achinoul, the Justice Clerk and James MacGill of Rankeillor Nether, the Clerk Register, served on a committee of the Assembly while<sup>2</sup> Patrick, Lord Lindsay of the Byres, another Privy Councillor, was one of those appointed to present a supplication to the Queen on behalf of the Church.<sup>3</sup> Knox records that the earl of Morton, the earl of Mar and William Maitland of Lethington also attended that Assembly.<sup>4</sup> The attendance of these statesmen showed that the tide had turned in favour of the Assembly which was nearing the complete state for which it had so long planned.

Events moved quickly following the murder of Riccio on 9th March<sup>5</sup>

1. D. Hay Fleming, Mary Queen of Scots. London, 1897. pp. 117-8.
2. B.U.K. p. 66.
3. Ibid. p. 71.
4. Knox, History. vol. ii. p. 174.
5. For a summary of the whole matter cf. D. Hay Fleming, Mary Queen of Scots. pp. 387-90.

and by the end of April the earls of Moray, Glencairn and Argyle were again in the Privy Council.<sup>1</sup>

On 26th June, 1566, seven days after the birth of the prince,<sup>2</sup> the General Assembly met.<sup>3</sup> The Privy Council attended as such for the first time since December, 1563.

The second half of 1566 saw the growing personal influence of the earl of Bothwell over the Queen. The baptism of Prince James at Stirling according to the rites of the Church of Rome took place on 17th December.<sup>4</sup> Relations between the Queen's party and the protestant lords gradually worsened as a result. The granting of a pardon to the earl of Morton and seventy or so others, who had been implicated in the murder of Riccio, on the day before the meeting of the Assembly of 25th December confused the position even further.<sup>5</sup>

1. R.P.C. vol. 1. p. 454.

2. Diurnal of Occurrents. p. 100.

3. B.U.K. p. 77. Although not recorded in the minutes, the earl of Moray was also present. (Knox, History. vol. ii. p. 187.)

4. Diurnal of Occurrents. pp. 103-4.

5. The Register of the Privy Seal of Scotland (ed. by J. Beveridge and G. Donaldson) Edinburgh, 1957. vol. v. Part. ii. No. 3149.



The Privy Council which was meeting in Stirling at the time<sup>1</sup> was not present at the December Assembly. Some Privy Councillors, however, did attend.<sup>2</sup>

On 9th February, 1567 Darnley was murdered at Kirk of Field<sup>3</sup> and by 15th Mary Mary and Bothwell were married.<sup>4</sup> The Queen's position became untenable in face of strong opposition from many quarters.

The Queen surrendered at Carberry on 15th June, 1567<sup>5</sup> and on the following day was sent as a prisoner to Lochleven Castle.<sup>6</sup> Within ten days the Assembly opened its bi-annual meeting in Edinburgh. It is not surprising that, as a result of all these disturbances and the necessity of ensuring good government, the Privy Council found it impossible to attend the Assembly in spite of a request to 'ther Lordships to conveine and concurre with the kirk presentlie assemblit, for

1. R.P.C. vol. i. pp. 493-95, and B.U.K. p. 83.

2. In addition to bishops Adam Bothwell and Alexander Gordon, reference is made to Sir John Bellenden. (B.U.K. pp. 83 and 90.)

3. Diurnal of Occurents. pp. 105-6.

4. Ibid. pp. 111-12.

5. Ibid. pp. 114-15.

6. National MSS of Scotland. vol. iii. No. LV.

heiring of sick articles as salbe thocht good for the establishing of Gods word, the true religioun, and supporting of the ministrie within this realme'.

On 21st July, there was a very large attendance at the Assembly of nobility, including members of the Privy Council,<sup>2</sup> as a result of missives<sup>3</sup> which had been sent out to 'all and sundrie erles, lords, barrons and uthers brethren'<sup>4</sup> from the Assembly which had met during the previous month. Because its composition was unusual due to these circumstances, it is impossible to state what place the Privy Council took officially at that Assembly. The political situation was changing during the few days of this Assembly's life.

A new era dawned for the Church, when on 24th July, Mary Queen of Scots, signed three documents which gave the crown to her son, appointed her half-brother James Stewart, earl of Moray, Regent and named seven of the nobles to govern until the return of the Regent from

1. B.U.K. p. 93.

2. The list is given in Ibid. p. 110.

3. The text of the missive is found Ibid. pp. 94-95.

4. Ibid. p. 93. For a list of those to whom missives were sent cf.

Ibid. pp. 95-96.

France where he had been since April.<sup>1</sup> The day after, Moray arrived in England<sup>2</sup> and he returned to Scotland on 10th August and was proclaimed Regent on 22nd of the same month.<sup>3</sup>

The country was divided. Relations with England were strained as Queen Elizabeth had not decided whether or not to support the new regime. Moray, who had been in agreement with the reformed cause from the beginning, was supported by the Church and he, in turn, realising the value of this, as well as being in sympathy with the reformers' aspiration, was not slow to see the necessity of assisting the Church.

The first few months of the Regency were difficult but by the early winter the country was in a reasonably subdued state. The first parliament of the new reign met at Edinburgh on 15th December and gave a firm legal basis to the establishment of the reformed Church in Scotland as the Acts passed in 1560 were re-enacted<sup>4</sup> and the Scots Confession

1. A.P.S. vol. iii. pp. 11-14.

2. Letters and State Papers relating to English Affairs, preserved principally in the Archives of Simancas. Elizabeth. (ed. M.A.S.Hume). vol. i. p. 662. London, 1892.

3. A.P.S. vol. iii. p. 13.

4. Ibid. vol. iii. pp. 14 et seq.



engrossed in the Acts of Parliament.' Certain outstanding ecclesiastical questions were referred to a commission 'to consider quhat vther speciall pointis or clausis, sould appertene to the iurisdiction, priuilege, and authoritie of the said Kirk',<sup>2</sup> it was instructed to report to the next parliament so that a suitable act could be passed dealing more fully with the matter.<sup>3</sup>

The Assembly was obviously concerned about its relationship to the state and was attempting to propound its requirement to 'the regiment'. This word, which was current before this date, was still in circulation and was not only used by Throckmorton in reporting conversations which he had had in Scotland with certain of the pro-English party<sup>4</sup> but a word which was officially employed by parliament in its acts of 1567.<sup>5</sup> The use of this word indicated that in government circles there were thoughts regarding relations between Church and State as well as in the Assembly.

1. Ibid. vol. iii. pp. 14 et seq.

2. Ibid. vol. iii. p. 37.

3. Ibid. vol. iii. pp. 24-5.

4. Calendar of Scottish Papers. vol. ii. p. 352.

5. A.P.S. vol. iii. p. 78.

From this date, the General Assembly self-consciously began to seek a place for itself. Up until 1567, it is possible that there were some idealists who thought of a godly prince who would govern through the Assembly. The State obviously had different ideas in spite of its use of the term 'the generall assemblie of the haill Realme',<sup>1</sup> which reflected the Assembly's view of itself and was probably thinking much more of a government of the Church and people modelled on an English pattern. The strong desire of the Assembly on the one hand to have some statutory safeguards to the Church's jurisdiction and on the other the emergence in the state of the idea of the 'regiment',<sup>2</sup> which was

1. A.P.S. vol. iii. p. 23 c.7.

2. For a short survey cf. P. Althaus, 'Luthers Lehre von den zwei Reichen im Feuer der Kritik' in Lutherjahrbuch 24. 1957 pp. 48-60. The literature on the continental background to this whole matter is immense. A few important studies are, K. Holl, Gesammelte Aufsätze zur Kirchengeschichte. I: Luther. Luther und das Landesherrliche Kirchenregiment. 6ste Auflage. Tübingen, 1932. E.Kinder, Geistliches und weltliches Regiment Gottes nach Luther. 1940 and G. Törnvall, Geistliches und Weltliches Regiment bei Luther. Munich, 1947. (German trans. of Andligt och världsligt regiment hos Luther). For an account of Luther's political ideas cf. K. Matthes, Luther und die Obrigkeit. Munich, 1937.

different from what had been the doctrine of the majority in Scotland until that date, gave rise to a continual concern in successive Assemblies over the status and place of the Assembly within the constitution and legislature of the realm.

The concern for a clear statement on this matter at the beginning of the new reign may have been due to the Assembly's fear that it would be bypassed in the same way as the Convocations of Canterbury and York had been by the English government.<sup>1</sup> If England was now to be the pattern of things to come, the Assembly was clearly not prepared to accept any settlement of the problem along such lines.

The next Assembly, which met on Christmas day, 1567, was important as far as its constitutional development is concerned for it is quite clear

1. During the reigns of Henry VIII and Edward VI, especially the latter, the Convocation had little status. All ecclesiastical initiative was in the hands of the Crown. On the accession of Elizabeth, the first Parliament passed the Act of Uniformity with a Book of Common Prayer attached and thereby settled doctrine and practice without any reference to the Convocation. The state also took over the visitation of the clergy and it was the state which laid down the regulations regarding conduct and residence of the clergy. cf. C.S.Meyer, Elizabeth I and the Religious Settlement of 1559. St.Louis, 1960.



now obtained the counsel of the government as neither the Regent nor Privy Council attended the General Assembly from this date until the participation of the King or his commissioner.

This change was brought about by the state taking the initiative. The earl of Moray had some time before nominated certain members of Parliament and Privy Councillors to meet with representatives of the Assembly.<sup>1</sup> The Regent himself was a great supporter of the Church but there were probably a number who wholeheartedly favoured the political arrangements which had been established in England. The theory of church and state relations which lay behind the settlement in England, came as something different from what had been the main conceptions<sup>2</sup> in Scotland prior to the abdications of Mary. It was probably from such a document as 'An Act restoring to the Crowne thauncyent Jurisdiction over the State Ecclesiasticall and Spirituall, and abolyshing all Forreine Power repugnant to the same' of 1559<sup>2</sup> that the political doctrine was taken and had influence in certain government circles in Scotland which had now become powerful.

1. Ibid. There is no record of this in the minutes of the Privy Council.
2. The Statutes of the Realm. London, 1819. vol. iv. pp. 350-55.

that from 1567 the Church entered into a new relationship with 'the higher poweris'. The Assembly was now organising itself as a self-contained organisation with a function and jurisdiction of its own and existing over against the state with control over spiritual matters parallel to the control which the state exerted over the secular affairs of the kingdom. This was seen for example in the appointment of its officers made at this Assembly.<sup>1</sup>

Its relationship with 'the higher poweris' altered also on account of the contemporary political situation. There was no sovereign who could attend and yet the Privy Council would no longer be the higher power which met with the other parts of the Christian commonwealth in General Assembly when there was a godly Regent who had replaced the 'idolatrous sovereign'. The Assembly did not ask the Regent to confer with it, although this would have been the obvious action to have taken in view of the political theory of the Church. Instead the Assembly appointed nine of its members to confer with those members of parliament or Privy Council which the Regent had already appointed.<sup>2</sup> This became the usual way in which the Assembly

1. cf. pp. 255-8. *infra*.

2. B.U.K. p. 113.

On 8th July, 1568, the Assembly pressed the Regent for a meeting of the commission which had been set up by the 1567 Parliament.<sup>1</sup> The Regent and the Privy Council replied that it would be convened on 8th August.<sup>2</sup> This does not appear to have taken place.<sup>3</sup>

The Assembly was quite obviously moving away from the original idea of what the General Assembly was to have been. It seemed as if it was no longer to be the people of God of the whole realm of Scotland seeking to know God's will for His people and to declare it to the 'godly prince' or 'godly magistrate' so that he would write it into the statutes of the nation if that were necessary. The Assembly was now becoming the General Assembly of the Church attempting to live along with the State, having a place and function of its own, but whether the Church and State were 'zwei Regimente' and the Church 'das geistliche Regiment unter einem landesherrlichen Kirchenregiment' or 'zwei Reiche'<sup>4</sup> was a question which no contemporary asked in Scotland. It is certain that the

1. B.U.K. p. 128.

2. Ibid. p. 129.

3. Petrie, History. p. 360.

4. cf. p.86.supra.



government and many within the Church thought in terms of the former but it cannot be said that there was no support for the two kingdom theory even at this time, although none, as yet, had considered the matter theologically. This lack of decisiveness and the absence of any clear statement by the Assembly or by the government was, undoubtedly, the main reason for the failure of parliamentary commission to meet. Although preparations for the York-Westminster conference which lasted from October until January 1569 may have been a contributory cause.<sup>1</sup>

It is hard to understand why the Assembly was so persistent in its demands for this separation from the state at this time.<sup>2</sup> It was obvious that the Regent required and received the support of the Church in the troubled political situation in which the country found itself at that time and, because of this, over and above his sympathies, the Regent had to give great consideration to the Church. It can only have been that the Assembly had now quite decided upon a division between Church and State because it was well aware of the possibility of being absorbed into the secular courts and was determined to continue

1. P.Hume Brown, History of Scotland. Edinburgh, 1911. vol.ii. pp.102-4.

2. B.U.K. pp. 140, 146 and passim.

as a court in its own right. The Assembly was so fixed in its purpose that it seems to have attempted to gain as much advantage as possible for itself at a time when the government was in a weak position.

The Convention which met at Perth in July, 1569 stated that the commission appointed in 1561 would meet at 'the tyme of the nixt Chekker, and define and limitat the said jurisdiction according to the Word of God and the said Act of Parliament'.

Nothing further was heard of this explicit instruction and at the next two General Assemblies no mention of the problem was made because that of March was overshadowed by the assassination of the Regent, the earl of Moray, while the July Assembly met at a time when the struggle for power between the new Regent and the Marian lords had not yet been decisively settled in Lennox's favour.

The following Assembly which opened at Edinburgh on the first day of March, 1571 was presented with a letter from the Regent requesting it

1. R.P.C. vol. ii. p. 7. This was, in effect, instructing the committee to deal very expeditiously with the matter as the 'ordiner chekker' was generally 'held in June, July or August'. (A. Murray, 'The Procedure of the Scottish Exchequer in the Early Sixteenth Century' in S.H.R. vol. xl. p. 90.)

to meet at Glasgow.<sup>1</sup> 'The Assembly was willing; but desired his Grace to hold them excused, because the Barons, Gentlemen, and Commissioners, some of them wanted horse, some of them had other impediments'.<sup>2</sup> The Assembly by this reply shows that it recognised Regent's authority over it in certain respects at least.

The letter from the Regent indicated that he considered the Assembly to be a group within the state with which he had to negotiate rather than to assist with his presence and counsel as the Assembly would have earlier considered to be the constitutional position. The Regent may have been apprehensive of the policy being pursued by the Assembly and the possibility of the expansion of its sphere of influence at the expense of the state at a time when the government was in a weak position. It seems therefore that the Regent was not prepared to attend the Assembly as a constituent part of it. It was also certain that the majority of the politicians had never really understood the reformers' idea of the Christian commonwealth and under Lennox the separation seems to have imperceptibly become greater.

The Articles of this Assembly to the Regent and Privy Council

1. B.U.K. p. 185.

2. Ibid. p. 184.



reveal that the Assembly saw that its influence was narrowing down to a circumscribed ecclesiastical sphere. While the remit given to the Commissioners to the Regent quite clearly shows that the Assembly now thought of itself as a court which had power to treat with the Regent not only on matters which it raised with him but also those matters which were 'proponed' by the Regent and Privy Council.<sup>1</sup> Taken together, these indicate that the idea of the two kingdoms was gradually assuming power to control constitutional developments. The absence of the Regent from the General Assemblies made such a situation inevitable.

When James Douglas, earl of Morton was elected and accepted the office of Regent in Parliament on 24th November, 1572<sup>2</sup> and John Knox died on the same day,<sup>3</sup> the Church had to face a slightly different situation. The theological lead, the practical approach to political problems and his deep concern for the place and authority of the General Assemblies which John Knox had been able to offer to the Church were now gone,<sup>4</sup> while

1. Ibid. p. 187-89.

2. A.P.S. vol. iii. p. 78.

3. Duirnal of Occurrents p. 320.

4. For an estimate of Knox's theology and its distinctive insights cf. J.S.MacEwen, The Faith of John Knox. London, 1961.

the new Regent was interested almost exclusively in economic and political questions relating to the ecclesiastical constitution. This made it almost inevitable that a conflict of opinions would eventually take place.

Although the Regent never attended General Assemblies, he requested the Assembly of March, 1573 to show him the Acts of Assembly in order that he might see 'how many of them be perpetuall, and how many temporall'. The Assembly appointed a committee of six to meet with the Regent and Privy Council 'to oversee the Acts of the General Assembly'. This indicated that Morton was concerned with the actual constitution and legislation of the Assembly and was preparing to make further changes probably to reduce the supreme court of the Church to something like the Convocations of Canterbury and York.

It was at the next Assembly that difficulties came into the open for the first time. Alexander Hay, clerk to the Privy Council presented 'heads and questions' from the Regent.<sup>1</sup> A committee was appointed to study them and prepare an answer. At the same time four were

1. B.U.K. p. 262.

2. Ibid. p. 288.

appointed to present a supplication to the Regent and to return with his answer.

This supplication, in simple stately language, set out for the first time a clear account of the General Assembly's conception of its own place, constitution and jurisdiction.<sup>1</sup> It is of first importance as it appears to have met with widespread support in the Assembly and reveals that the position which had been taken in the early days of the reform of the Church in Scotland was still the dominant ideal in the Church.

It stressed that all the estates, even the highest, had 'joynit themselves, be thair awin presence in the Assemblies, as members of ane body, concurreand, voteand and authorizand in all things their proceedings with their brether'. After reminding the Privy Council that the Assembly was composed, 'not only of the persons of the ministrie, but also of the haill members of the Kirk professing Chryst', the General Assembly was declared to be an Assembly of 'the haill General Kirk of this realme' which was the same as the statutory position which had been referred to in the Act of Parliament of 1567 which referred to it as 'the generall

1. Ibid. pp. 292-3.



assemblie of the haill realme'. The constitutional position of the General Assemblies was quite clearly stated. It was claimed that two meetings each year were authorised by Act of Parliament while stating that the 'Lord hes appointit Assemblies and conventions', that this has been the continual practice of the Church and that these are 'authorized be the presence of Jesus Chryst'.

This dual authority was the central difficulty. It was a simple matter to declare that Assemblies were authorised by the presence of Jesus Christ and by Act of Parliament. It was very different when this theory had to be worked out in practice. While this Assembly was quite clear that all the estates, including the Regent, should be represented in the Assembly and therefore had the full power of the whole population in Scotland and able to act in that capacity, the Assembly saw that it was still bounded by the laws of the realm and controlled by the revelation of God in Christ. The doctrine continued in this document had therefore more in common with the two regiment rather than the two kingdom theory although it is clear that by stating that the Assemblies

met by the authority of Christ is here a definite attempt to find a compromise between the two. If this had been understood by the State and adhered to by the Church, the next century's history in Scotland would have been vastly different.

The other basic concern of the Assembly was that the Church in Scotland should remain a 'trew Kirk of Christ'. This is made clear when the Regent and Privy Council are addressed that they might esteem themselves to be members of Christ and of his Church and show the fruits thereof, 'of the quhilk it is not the least to joyne your selves to the Kirk, not only be hearing the word, and receiving the sacraments, bot also in conveining with your brether in the holie Assemblies'.<sup>1</sup> This re-echoed the Scots Confession which stated the notes of the true Church; first, the trew preaching of the Words of God ... Secundly, the right administration of the Sacraments of Jesus Christ .... Last, Ecclesiastical discipline uprightly ministered.<sup>2</sup> The Regent and Privy Council were related directly to each of these within the Church as members of it.

The two fold aim of the Church, as indicated by this Assembly was therefore, to have the Regent and Privy Council as an integral part of the

1. B.U.K. p. 293.

2. Article xviii.

General Assembly and to ensure that there was adequate discipline maintained especially over the bishops who had been recently appointed.

The Regent did not respond to the overtures of the Assembly. In fact, tension appears to have increased. This is plainly shown in the instructions given to the committee which was appointed to meet with the Regent and Privy Council. It was instructed that if the Regent and Council refused to reason with them 'as Commissioners of the Assembly, then and in that case they should return again to the Assembly with their commission, and report their refusal, to the effect the Assembly may take order thereanent'.<sup>1</sup> This indicates that some circles, at least, within the government, if not the government as a whole, considered that the General Assembly was purely and ad hoc group and that the responsibilities of such a group could not be taken over by the state on the appointment of a godly magistrate and prince. This was the thought which motivated some to discourage negotiation with the Assembly the continuance of which they considered constitutionally and politically unwise. For such a position they could find considerable support from the teaching of the reformers. There was however no head-on collision and the committee did not report

1. B.U.K. p. 296.



back to that Assembly.

The Assembly was still very anxious to retain its place as a council of the whole nation and, at the October Assembly of 1576, sent three of its members 'to sute my Lord Regents Graces presence at this Convention, or vthers authorizit with his commissioun'. Morton excused himself and suggested that the current practice of certain members of the Privy Councill and of the General Assembly meeting 'to conferre vpon sick things as may further the glory of God'.<sup>1</sup> This approach to the Regent was probably an attempt by the more conservative elements in the Assembly to ensure the retention of the non-sacerdotal character of the Assembly and to keep the non-ministerial membership strong to prevent the complete separation of Church and State which many saw was now more than a possibility. The Regent, however, afraid of the State becoming a department of the Church, retained his policy of neutral aloofness which he had pursued from the beginning.

Although the minutes of the Assembly for this period reveal little, there was a large amount of work being done by members of governmental and Assembly commissions in attempts to achieve a settled ecclesiastical

1. Ibid. p. 365.

constitution. Lord Glamis, the Chancellor, was corresponding on the subject with Theodore Beza.<sup>1</sup> Clement Little was reading widely on the subject under review.<sup>2</sup> Andrew Melville was active in propounding detailed views which he had brought to Scotland and he compelled others to think out their own position for the first time. By 1575, he had convinced, among others, James Lawson, John Durie and Walter Balcanquhall of the correctness of his position.<sup>3</sup> It was Melville who had compelled the Church, and possibly the State also, to get down to a study of the problems involved, including the place of the state representatives in the General Assembly, which had never really been faced after the cessation of State representation in the Assembly. This had been due, not only to more pressing difficulties facing the Church, but, to the dilatoriness of successive General Assemblies.

1. 'Lord Chancellor Glamis and Theodore Beza. Edited by G. Donaldson in Miscellany of the Scottish History Society. Edinburgh, 1951. vol. viii. pp. 89-113. He was a member of the state commission of 1574 (A.P.S. vol. iii. p.89) and of the Assembly commission of October, 1576 (B.U.K. p.365)
2. cf. e.g. the marginalia on his copy of John a Lasco, Forma ac ratio tota ecclesiastici ministerii. in the library of the University of Edinburgh. Press Mark. Dd. 6.6.
3. Melville, Diary. p. 52.

The Assembly was faced with a list of questions to which the Regent wished an answer in October, 1576.<sup>1</sup> Many of them were directly connected with the General Assembly and some of them went right to the heart of the matter.<sup>2</sup> There is no foundation for the assertion that 'the greater part of these questions were evidently captious and frivolous'<sup>3</sup> although Morton may have sent them 'with the view of embarrassing' the proceedings of the General Assembly. They show that the constitution of the Assembly was being carefully examined by those in government circles. If the Assembly had been in a position to give direct answers to the Regent, it might have been able to establish itself much more easily than transpired during the next two decades. It is more than likely that these questions were of positive value to the Church in making it easier to think more clearly about the constitution of the General Assembly and the place of the Regent and Privy Council within its membership. It probably too guided to some extent the framing of certain parts of the Second Book of Discipline.

The Assembly of October, 1577 shows the effects of this. Immediately

1. B.U.K. pp. 368-72.
2. Question 10. Ibid. p. 369.
3. McCrie, Melville. p. 54.



after the opening, John Row and James Lawson were sent to the Regent to ask him to attend in person or send commissioners. They returned and reported that 'his Grace had no leisure to talk with them, for occupation'.<sup>1</sup> The Assembly then instructed John Craig and John Brant to 'require his personal presence in this Assembly, or Commissioners to be directed from his Grace authorized with his Commission.'<sup>2</sup> Craig and Brand told the Assembly next morning that the Regent answered that 'in respect of sundrie importunat bussines he could not have the Counsell so soone conveyit, he could not satisfie the petition of the Kirk desyrand that the brether that were sent to him befor, sould come downe and speak with his Grace'. Lawson and Row were sent but no report of this interview appears in the records.<sup>3</sup>

The demonstration, at this time of this great persistence of the General Assembly in 'requiring' Morton to attend in persons or by commissioners presents a perplexing problem. It was not an attempt by the conservative elements in the Assembly to turn the clock back and re-constitute the General Assembly of the whole realm of which the Regent was a necessary part as Lawson and Brand were two who subscribed to the

1. Ibid. p. 392.

2. Ibid. p. 393.

3. Ibid. pp. 393-4.

doctrines associated with Andrew Melville and were very well aware of the great influence of the two kingdom theory which had, by now, gained great support in the Church. It could not be anything in the nature of a constitutional theory regarding the composition of the General Assembly which was responsible for such a request. It seems very probable that the Assembly wished the Regent to attend in order to be committed to a policy which had been decided in the General Assembly. This would have been in accord with the Second Book of Discipline, the draft of which almost certainly by this time contained the sections dealing with this matter.<sup>1</sup>

On 24th April, 1578, the General Assembly met<sup>2</sup> and had to face an entirely new situation. James VI had assumed the government of the kingdom at the Convention of Estates, which had been held at Stirling, on 8th March.<sup>3</sup> The king was not twelve years old until 19th June<sup>4</sup> and in such circumstances the Assembly did not ask for the presence of the king

1. Ibid. p. 489. Para. 14 and p. 490. Paras. 21 and 22.

2. Ibid. p. 403.

3. A.P.S. vol. iii. p. 115.

4. James was born on 19th June, 1566. Diurnal of Occurrents. p. 100.

but asked the Privy Council to send some of its members as commissioners from the king, 'to assist the Assembly with thair presence and counsell'. Those who had been sent with the <sup>reported</sup> request/<sup>that</sup> two would be deputed to attend the following morning.'

John, Lord Herries and Robert Keith, commendator of Deer, appeared at the next session. They did not consider themselves to be part of the Assembly as they stated, when their opinion was asked on certain Articles, that they came 'not to vote nor conclude, but were directed be the Counsell to heir and sie the proceidings of the Assembly, and always sould insist at the hands of the Counsell for ansuer to the said Articles.<sup>1</sup>' This strict adherence to their remit shows that the State was very wary in its dealings with the General Assembly. It should be noted, however, that the state was following the practice which had originated in the time of Queen Mary but had forgotten the reason for the Assembly restricting the Queen's representative to that of an observer.

The Assembly obviously found it very difficult to determine what relationship would evolve in the new reign. In the circumstances

1. B.U.K. p. 404.
2. Ibid. pp. 405-6.



all that the Assembly could do was to attempt to clarify the status of Herries and Keith and it approached the Privy Council. The reply was given that 'they gave them no power as Commissioners of the King to vote in the Assemblie, for they had not spokin the King in this behalfe; alwayes as brether and members of the Kirk, they sall give advyse, counsell and vote.'<sup>1</sup> The Assembly was therefore no further forward as these individuals, who in their own right had a place in the Assembly, by attending without power on the king's behalf were as such not commissioners but mere observers.

The king sent a letter to the next Assembly, July, 1579<sup>2</sup> but was not represented by anyone who attended.

It was not until the Assembly, which met at Dundee on 12th July, 1580, that the position appeared to have been clarified. A royal commission was handed in intimating that James Haliburton, prior of Pittenweem and William Lundie of Lundie were 'instructed with the King's power for assisting you with thair presence and counsell in all things that they may'.<sup>3</sup> These, then, were the first king's commissioners as they

1. Ibid. p. 406.

2. Ibid. p. 428.

3. Ibid. p. 452.

came with the 'power' of the crown.

Three months later an Assembly was held in Edinburgh but no commissioners appeared from the king. In spite of a request being presented to James by six commissioners set by the Assembly asking 'that he would direct some persons authorized with his Hienes commission to concurre with them in their Assemblie', in order that answers to certain articles presented to him would be forthcoming,<sup>1</sup> no one was sent.

The next Assembly, which met at Glasgow on 24th April, 1581,<sup>2</sup> was attended by William Cunningham of Caprington, who presented the king's letter 'containing also ane commission from his Hienes to concurre with the Assemblie, togither with certaine rolls containing the planting of the kirks, and the number of presbyteries, with the kirks of every presbyterie.'<sup>3</sup> His presence with the rolls of presbyteries was a direct result of the action taken by the previous Assembly and the discussions which took place between Church and State representatives since that date.<sup>4</sup>

1. Ibid. p. 464.

2. Ibid. p. 473.

3. Ibid. p. 475. The king's letter is printed on pp. 476-82.

4. Ibid. pp. 465, 471, 476-7.

It was at this Assembly that it was agreed 'That the Booke of Policie agreeit to befor, in diverse Assemblies, sould be registrat in the Acts of the Kirk, and to remaine therin, ad perpetuam rei memoriam, and the copies therof to be takin be every Presbyterie.' The Second Book of Discipline, as it has come to be known, was now part of the accepted constitution of the Church.

This Book gave, for the first time in Scotland a succinct and clear account of the relations between Church and State. It was a definite change from the outlook of the Church of 1560 but because it was a short statement which was easily understood and coming as it did during a period when relations between Church and State had not really been thought out by either side, it created a solid body of opinion which, from the time of its appearance until the present day, could think in no way other than in terms of the two kingdom theory.

This document dealt at some length with the General Assembly. It was stated to be 'ane lauchfull Conuentioun of the Kirkis of the haill realme or natioun, quher it is vsit and gadderit, for the commoun effearis of the Kirk; and may be callit the Generall Eldership of the haill Kirk

1. Ibid. p. 488. The text of the Second Book of Discipline is printed Ibid. pp. 488-512.



within the realme.'

One paragraph in the Book is important as it outlines the future place and function of the various commissioners within the supreme court of the Church. '33. Nane are subiect to repair to this Assemblie to voitt, bot ecclesiasticall personis, to sic ane nowmer as salbe thocht guid be the same Assemblie; not excluding vther personis that will repair to the said Assemblie, to propone, heir and reason.'<sup>2</sup> The two kingdom theory was the controlling factor in this exclusion of all but 'ecclesiasticall personis' from voting. The power of government in the Church was therefore to be only in the hands of ministers and elders and the function of the king or his commissioners was to be restricted, as well as that of the lords and the commissioners of burghs, shires and universities, to being present in the Assemblies to propone, heir, and reason', but with no vote. This statement had no direct influence on the subsequent place of the Crown or King's Commissioner in the Assembly during the sixteenth century.

In fact the very next Assembly did not leave the initiative to

1. Ibid. p. 500.

2. Ibid. p. 500.

the crown to send 'personis that will repair to the said Assemblie' but despatched William Christeson to the king to request him to send Commissioners. He promised to send some a day or two later which he did but they were not in attendance during the whole sitting of the Assembly and when some commissioners of the Church attempted to confer with them they indicated that they had 'no laizour'.<sup>1</sup> Later some Assembly commissioners tried to confer with certain members of the Privy Council regarding outstanding problems.<sup>2</sup> The meeting which the Council appointed did not take place. These commissioners were later informed 'That be reason of the great affaires of the King and Counsell, they could get no ansuer of such things as they were directit for'.<sup>3</sup> There is no doubt that the statesmen were busy as a Parliament was being held at the same time as the Assembly and had opened on 24th October, seven days after the Assembly.<sup>4</sup> This was not the only difficulty. The Parliament did not ratify the Second Book of Discipline nor did it take any action on the report of the committee on ecclesiastical polity which had been appointed

1. Ibid. p. 530.

2. Ibid. pp. 538-540.

3. Ibid. p. 541.

4. A.P.S. vol. iii. pp. 210 et seq.

by the previous Parliament if any report was in fact handed in. Relations between the Church and State were strained and the verdict in the case of Walter Balconquall<sup>1</sup> and the Assembly's action against William Montgomery<sup>2</sup> did not help to improve them.

This remained so until the situation was somewhat altered by the Raid of Ruthven<sup>3</sup> and it received the wholehearted approval of the Assembly which met on 9th October.<sup>4</sup> This Assembly at its second session directed the ministers of Edinburgh to ask James to send commissioners not only 'to sie the proceedings ther' but also to 'vote in his name'.<sup>5</sup> It seems likely that the Assembly by this action was trying to incorporate the Crown by proxy as part of the Assembly obedient to 'the spiritual sword', although this could not be considered a legi<sup>ti</sup>mate request in view of the fact that the Second Book of Discipline stated that 'Nane ar subiect to repair to this Assembly to voitt, bot ecclesiasticall personis'.<sup>6</sup>

1. B.U.K. pp. 527-32, 540-3.

2. Ibid. pp. 544-7.

3. Calderwood, History. vol. iii. pp. 637-40.

4. B.U.K. pp. 591-2, 594-6.

5. Ibid. p. 586.

6. Ibid. p. 500.



Even now the Assembly had not rid itself of muddled thinking. When the Commissioners, James Haliburton and William Stewart, presented their commission no mention was made of their having power to vote. They were commissioned by James 'to heir and considder the matters proponed .... and to report the matters proponit and intreattit to vs for our allowance and ratificatioun of the same'.

The next Assembly at which commissioners from the King appeared was that of April, 1583. James Haliburton, provost of Dundee and David Carnegie of Colluthie were commissioned after James had received a request from the Assembly.<sup>2</sup> The King's letter, which is not extant, did not help to solve any of the outstanding problems<sup>3</sup> and in subsequent negotiations between the King and the Assembly none of the basic difficulties were discussed.<sup>4</sup>

Early in the following year the Privy Council commenced to take action against some of the leaders of the General Assembly.<sup>5</sup> The first was

1. Ibid. p. 588.

2. Ibid. pp. 613-4.

3. Ibid. pp. 618-9.

4. Ibid. pp. 613-4, 620, 623-5.

5. For an account of these men cf. G. Donaldson, 'Scottish Presbyterian Exiles in England 1584-8.' in Records of the S.C.H.S. vol. xiv. pp. 67-80.

Andrew Melville who was accused of treason before the Privy Council meeting at Holyroodhouse on 17th February, 1584 and was ordered to enter into ward in Blackness Castle<sup>1</sup> but he escaped to Berwick.<sup>2</sup>

Shortly before the General Assembly was due to meet at St Andrews an Order in Council was made commanding and charging 'all and sindrie nobilmen, baronis, landit men, frehaldaris, and gentilmen, that thai forbear and leif of to convocate thameselffis at onie assembleis, be the motioun of quhatsumevir personis, spirituall or temporall, to deliberat in onie caussis, civill or ecclesiasticall, quhill his Majestie have tryit the present practises intendit for the truble of his estait and declair his expres will be his speciall licence to be grantit to that effect, as thai and everie ane of thame will answer to his Majestie upoun thair allegiance and obedience at thair uttirmest charge and perrell.'<sup>3</sup> Thus no one, with the exception of the ministry, could attend the General Assembly without breaking the law.

1. R.P.C. vol. iii. pp. 631-2.

2. cf. Melville, Diary. pp. 141-5 and Calderwood, History. vol. iv. pp. 3-18.

3. R.P.C. vol. iii. p. 648.

Because of the very disturbed state of the country and this Order only a small number of commissioners met at St Andrews on 24th. The King's Commissioner was John Graham of Hallyards, justice-depute and deputy keeper of the Great Seal.<sup>2</sup> He asked for a retraction of the approval of the Raid of Ruthven which the Assembly of October, 1582 had given and the condemnation and excommunication of the protestant lords who were then in Stirling. At this, the majority left the Assembly. The remainder replied that 'they could determine nothing, becaus their number was not full, and the barons and gentlemen were discharged to conveene with them.' Graham reported to James who 'commanded him to retire, and take suche answeare as they would give.' A letter from the protestant lords at Stirling was received. It was agreed not to read it publicly and after 'some few of the gravest and wisest' had considered it, the Assembly broke up but fixed no date for the next 'awaiting a better opportunitie.'<sup>3</sup>

The Parliament, which had originally met on 24th October, 1583 and

1. Brunton and Haig, Senators. p. 191.
2. R.P.C. vol. iii. p. 543.
3. Calderwood, History. vol. iv. p. 37.



continued to 18th November, met for business on 19th and 22nd May.<sup>1</sup> The proceedings were conducted with the utmost secrecy.<sup>2</sup>

The first Act was similar to one which had been passed by almost all the Parliaments during the reign of James. 'Anent the Libertie of the preching of the trew word of God and administratioun of the sacramentis.'<sup>3</sup> The clarity of the Act compared with the vagueness in wording with regard to the doctrinal standards of similar Acts of 1571 and 1581,<sup>4</sup> the avoidance of the phrase 'agreeable to the Word of God'<sup>5</sup> and the use of wording similar to the Act of 1567, which approved preaching and administration of the sacraments 'according to the Confession of faith ..... ressaute, and appreuit, as the heidis of the Confession of faith, professit in Parliament of befoir, in the yeir of God. 1560. yeiris,'<sup>6</sup> meant that a closer control could be kept on preaching and legal proceedings by the Crown could be

1. A.P.S. vol. iii. pp. 289-291.

2. Calderwood, History, vol. iv. pp. 62-3.

3. A.P.S. vol. iii. p. 292.

4. Ibid. vol. iii. pp. 58, 210-1.

5. As used in 1578. Ibid. vol. iii. p. 95. cf. Calderwood, History. vol. iv. p. 246.

6. Ibid. vol. iii. p. 23.

taken more easily.<sup>1</sup> This Act was also based on the preconception that the Parliament was the court which controlled and decided the doctrine of the Church. The Parliament by this enactment therefore took away one of the fundamental rights which the General Assembly believed it alone possessed.

By the second Act the Assembly was stripped of all authority and royal power was confirmed to be over all estates and subjects within the realm.<sup>2</sup> The Church was not only placed under the control of the Crown but, by the Act immediately following, was made subject to the bishops and commissioners.<sup>3</sup> No mention was made of the courts of the Church; their existence was completely ignored. The king had now no place in the Assembly as it was by these Acts set aside.

This control of the Church, under the direction of the earl of Arran and with the active support of Patrick Adamson, was tightened even further by the Parliament which met from 20th to 22nd August, when 'ane Act for uniforme ordour to be observit be the beneficit men' was passed

1. A contributory cause may have been the famous sermon of Melville on

Daniel. chap. 4 of January ,1584. Calderwood, History. vol.iv. pp.3-10.

2. A.P.S. vol. iii. p. 293.

3. Ibid. vol. iii. pp. 293-4.

into law.<sup>1</sup> The Church continued to be under the complete domination of the state and the Acts of Parliament were rigidly enforced<sup>2</sup> until Arran was committed as a prisoner to the castle of St Andrews for his implication in the murder of Lord Russell in a fray on the Scottish border on 27th July, 1585.<sup>3</sup>

The banished Lords were in power within the Privy Council on 7th November, 1585<sup>4</sup> but the discussions and negotiations between the Church and the crown produced nothing<sup>5</sup> and there were signs too of new problems yet to be faced. This was seen for example in the King's stated intention to cause the polity of the Church 'to be perfyted by a godlie Generall Assemblie of bishops, ministers, and others godlie and lerned, Imperatore praesidente.'<sup>6</sup>

The next General Assembly met at Edinburgh on 10th May, 1586 in obedience to a royal proclamation which summoned the various groups to

1. Ibid. vol. iii. p. 347.
2. cf. R.P.C. vol. iii. pp. 662 et passim.
3. Ibid. vol. iii. p. lxxv.
4. Ibid. vol. iv. p. 33.
5. Calderwood, History. vol. iv. pp. 449-464.
6. Ibid. vol. iv. p. 459.



attend.<sup>1</sup> After the constituting of the Assembly by Robert Pont, the moderator of the last legal Assembly, the King's Commissioner, John Graham and Peter Young, before the moderator was elected, stated in view of the King being occupied with the affairs he wished them to adjourn and meet in the Chapel Royal in the afternoon. The Assembly agreed to do this.<sup>2</sup>

At the meeting in the afternoon in the Chapel Royal, while James does not appear to have presided as he had declared earlier, he took part in the election of the moderator and in the appointment of the business committee and to which he added six of his own nominees.<sup>3</sup> The King's Commissioners also took part in the proceedings.<sup>4</sup>

This Assembly was concerned about its own composition and status. It stated, almost in the words of the Second Book of Discipline, 'It is found that all such as the Scripture appointeth Governours of the Kirk of God, as, namelie, Pastours, Doctours, and Elders, may conveyne to

1. cf. pp. 291-2. *infra*.

2. B.U.K. p. 645.

3. Ibid. p. 647.

4. Ibid.

Generall Assemblies, and vote in ecclesiasticall matters; and all vthers that hes any sute or vther things to propone to the Assemblie, may be ther present and give in thair sutes, and propone things profitable to the Kirk, and heir reasoning, but sall not vote.'<sup>1</sup> It is certain that this was never enforced in view of the action of the king and others in this and later Assemblies.

At the Assembly of June, 1589 there were no commissioners present from the king but James addressed the Assembly three days after the opening.<sup>2</sup> He did not attend all the sessions of this Assembly.

During the sitting of the Assembly which met on 3rd March of the following year, the king was absent from the country.<sup>3</sup> A considerable number of Acts were passed against 'Jesuits, Papists, and Seminary Priests' and not only were the members of the Assembly instructed to subscribe to 'the Bond mantaining religion and Confession' but also the 'Commissioners appointed by the Privie Counsell thereto' and report their diligence to the presbytery of Edinburgh before 20th May.<sup>4</sup> Whether the Assembly would

1. Ibid. p. 650.

2. Ibid. p. 745.

3. He did not return from Denmark until 1st May. Calderwood, History.  
vol. v. p. 94.

4. B.U.K. pp. 747-9.

have done this in other circumstances is impossible to say but an important precedent was established although it was never pleaded in the future.

James was present for at least part of the time during the next Assembly of August, 1590. In his address to the Assembly he made a claim which reveals that he had been considering again his function within the General Assemblies and the Church. In no matter 'was he so earnest in as in this' that he 'willed the Ministers to purge themselves, and to be impartiall in their own cause. It was his duety, said he, as well to see them reformed, as it was theirs to urge him and the Nobility to reforme themselves.' This seems to have passed unnoticed in the proceedings of the Assembly, but James still claimed to be the godly prince who was ultimately responsible for the reform of the Church. Fundamental problems were even yet being glided over.

The uneasiness of the Assembly about the place which the king was taking in its affairs can be seen in the fact that when James altered the place of meeting of the General Assembly of 1591, almost certainly on account of the activities of Francis Stewart, earl of

1. Ibid. p. 771.



Bothwell, it considered it necessary to vote that its meeting was 'ane lawfull Assembly'.<sup>1</sup>

The next few years were uneventful. The king and Assemblies went their separate ways. The Church hoped that the Acts of Parliament which made its courts illegal gatherings would be repealed but the negotiations were unsuccessful.

With the change in the political situation brought about by the riot in Edinburgh on 17th December, 1596,<sup>2</sup> the General Assembly entered upon a new era of its history. The Assembly had been and continued to be divided within itself<sup>3</sup> and had failed to take a decision on matters of importance, for example, the choice, place and purpose of ecclesiastical members of the Three Estates. It was also obvious that, since the participation of the king in person at the General Assembly of May, 1586, the Church had not made up its mind about the place and status of the godly prince in spite of the statements in the Second Book

1. Ibid. p. 779.

2. Calderwood, History. vol. v. pp. 512-4.

3. cf. remarks of John Davidson in a letter to the General Assembly of May, 1597. B.U.K. pp. 914-5.

of Discipline. The standing commission which the Assembly of March, 1596 had appointed had been ineffective just because of such problems.<sup>1</sup> It was because of this that James did not find it difficult to pursue a definite ecclesiastical policy for he had made up his mind.

James prepared to establish a strong control over the Church during the weeks which followed the riot at Edinburgh. From a paper in the handwriting of William Cecil, Lord Burghley dated 20th January, 1557,<sup>2</sup> it is obvious that James was considering the whole constitution of the Church in great detail and was obtaining advice from important quarters. His attitude to the Church was now strongly influenced by his hopes of succession to the English crown and that is undoubtedly the reason for Cecil being involved in this matter. This great English statesman must have considered the question to be of great importance as his memorandum was written at a time when he was deeply involved in serious diplomatic conversations.<sup>3</sup> He was very interested in ecclesiastical affairs and had given a lot of thought to the problems which had been

1. B.U.K. p. 872.

2. Calendar of State Papers relating to Scotland. vol. xii. p. 435.

3. Convers Reid, Lord Burghley and Queen Elizabeth. London, 1960. pp. 533, 539-40.

caused by the rise of Puritanism in England a few years before.<sup>1</sup>

James gave a great deal of time and thought to this matter during the next week or two. Robert Waldegrave printed, in time for the meeting of the Three Estates and the General Assembly, the King's pamphlet 'The Qvestions to be resolvit at the Convention of Estaitis and Generall Assemblie, appointed to be at the burgh of Perth the last day of Februarie next to come'.<sup>2</sup>

This document raised many questions of great complexity and showed that they could only be considered mischievous by the Assembly if it wished to escape from a serious attempt to clarify its own constitution. The answers to questions regarding the General Assembly were essential if anyone wished to know what the supreme court of the Church claimed to be and what its composition and authority was.<sup>3</sup>

The preface to 'The Qvestions' set out the basic theory upon which James was to build his ecclesiastical policy and which could be supported by much that had been written by the continental reformers and therefore was

1. Ibid. pp. 487-513.

2. Aldis, List. No. 301.

3. Questions, 22-31.



bound to find a measure of support within the Church. His argument for taking initiative in Church affairs was that 'one of the principal points of the office of a Christian King to see God rightly honoured in his land; for effectuating whereof it is necessar, that the Spiritual office bearers in the Kirk not only teach sound doctrine ..... but lykways observe a comely order in the Spiritual Policy agreeing with the Word of God, the loveable custome of the primitive Kirk, and with the lawes of the countrey, and nature of the people ... as best may serve to establish and maintain the purity of religion'. James then stated that because of this, 'it becomes every Christian King, as fathers, nourishers of the Kirk within their dominions, and revengers of the breaches of both the tables, to strengthen and assist, be the concurrence of their civil sword, the said Spiritual office bearers in due execution of their calling: and, on the other part, to compell them to exercise faithfully their office, according to the rule prescribed to them be the Word of God; not suffering them to transgress the limits thereof in any sort.' He, therefore, because, among other reasons, 'a great obscurity in divers points of Discipline and Policy of the Kirk; novelties daily creeping in;' was apparent to him, he thought it 'comely following the loveable exemple of Christian Emperours of the primitive

Kirk, to convene and assemble a National Council, as well of the Ministry, as of our Estates, and of all sorts of men of deepest learning and greatest sincerity in religion; to be holden and to beginne to sit in our burgh of Perth the last of Februar next to come'.

The Assembly met as it had been instructed to do by the King.

'The Qvestions' were not discussed but Articles were presented to the Assembly by Sir John Cockburn of Ormiston, Justice Clerk and Edward Bruce, commendator of Kinloss, the King's Commissioners. In the Articles presented for a decision, the first was the most important in revealing the place which James claimed for himself within the supreme court of the Church. He asked that it be affirmed 'That it be not thocht vnlawfull neither to the Prince ..... any tyme heirafter, to move doubts, reason, or crave reformatioun in any points of the externall policie and government or discipline of the Kirk, that are not essentiallie concerning salvatioun, or is not ansuerit affirmativé vel negativé be any expresse part of the Scriptures; provyding that it be done decenter, in rycht tyme and place, animo edificandi non tentandi.'<sup>2</sup> A committee of twenty-

1. Ibid. pp. 903-4.

2. Ibid. p. 891.

one was appointed to 'give thair advyce and overture vpon the saids articles ..... and therafter report the same to the Assemblie'.<sup>1</sup> The committee reported that they considered that 'it is not expedient to make law or act touching this, least a door should be opened to curious and turbulent spirits; otherwise they think it lawfull to the King be himself or his Commissioners, to propound in a Generall Assembly whatsom-ever points he desires to be resolved in, or to be reformed in specie externi ordinis, seeing substantia externae administrationis ecclesiasticae est plenissime tradita in Sacris Literis: And as the Generall Assembly may accept of that from the King, so may the Generall Assembly doe anent any thing that is done be his Hienes in any Convention, meeting, or Assembly conveened be him hereafter.'<sup>2</sup>

The General Assembly was not prepared to accept this report simpliciter and after some discussion it was decided to agree to what the King had requested without the securing of reciprocal rights for the General Assembly as suggested by the committee.<sup>3</sup>

1. Ibid. p. 891.

2. Ibid. p. 892-3.

3. Ibid. p. 895.



The Assembly which met at Dundee in May, 1597 recognised the Perth General Assembly as lawful<sup>1</sup> and 'The Questions' gave rise to certain decisions<sup>2</sup> but the questions concerning the General Assembly and related matters were not touched upon. The Church drifted into the next century, having failed to make up its mind about the place of the 'higher Poweris' within its supreme court.

1. Ibid. pp. 924-5.

2. Ibid. pp. 925-6

### The King's Commissioners.

The appointment of a Commissioner of the Corwn to the General Assembly did not take place for some time after 1560. By a majority after a debate in the Assembly of December, 1561, it was decided 'to counsell her Grace, if she were jealous of anie thing to be treated to send suche as she would appoint to heare.'<sup>1</sup> As far as can be ascertained Queen Mary sent no one but if she had such a person would not have been in any sense a commissioner as he was not permitted by the Assembly to have any power or place in it.

It has been suggested that these Royal Commissioners were similar to laymen sent by the Crown to some of the pre-Reformation ecclesiastical councils in Scotland<sup>2</sup> but this is not so.<sup>3</sup>

1. Calderwood, History, vol. ii. p. 160 and Knox, History, vol. ii. p. 27.

2. W. Mc.Millan, 'Lord High Commissioner to the General Assembly' in the Records of the S.C.H.S. vol. vi. p. 37.

3. The incident quoted by McMillan, op.cit. will not support his interpretation. In 1459 two commissioners appeared for the King but they compeared (comparuerunt) before the council as petitioners. They were not members of the council nor had they a voice in its deliberations. Furthermore, it is almost certain that they were not present before nor after their case was heard. Cf. Statuta, vol. ii. p. 79.

Dr. R.H. Story<sup>1</sup> and Dr. Joseph Robertson<sup>2</sup> have been quoted to support a statement that the appointment of two doctors of civil law to attend pre-Reformation church councils in Scotland was a direct antecedent to the appointment of the Commissioner to the Assembly.<sup>3</sup> Neither say so nor does the practice in the pre-1560 church courts warrant the claim that the office was analogous to such a medieval appointment. The church councils before 1560 were autonomous and their decisions were binding upon all without further legislation. These lawyers were there in an advisory capacity to ensure that the decisions of the court were in keeping with the code of civil law and thus indirectly were they there to protect the rights of the Crown and people.<sup>4</sup> This is shown in one of the formulas in the Ayr MS<sup>5</sup> where the king reserves to the civil lawyers right to appeal against any decree of the court which is prejudicial to his royal majesty.<sup>6</sup>

1. R.H. Story, Apostolic Ministry in the Scottish Church, Edinburgh, 1897. p. 199.

2. Statuta, vol. i. pp. xli-liii.

3. McMillan, op.cit. pp. 36-37.

4. Cf. Patrick, Statutes. p. xli.

5. Statuta. vol. ii. p. 239.

6. 'Et specialiter ad protestandum et si necesse fuerit ad appellandum quod nichil per vos in dicto Consilio statuatur quod verti poterit in preiudicium nostre Regie Maiestatis. Ibid.



The position of the General Assembly was quite different. Its decisions were only enforcable in the civil courts when confirmed by Parliament and in this way the interests of the government and the people were not overlooked. Thus, from the beginning, the Commissioner of the Queen was invited to be present only in order that the Queen was able to hear of the proceedings should she be 'jealous of anie thing to be treated'.

No Commissioners were appointed as a result of this suggestion by the General Assembly of December, 1561. Mary never took advantage of this invitation and thus the problem of the place and status of the Commissioner of the Crown did not arise in her reign.

During the regency period there are various references to commissions and commissioners but they are not in any sense the same as the Commissioner of the Crown. It is not until the year of the regency of John, Earl of Mar that there is mention of conferences between Commissioners of the Church and State but this is, of course, another matter.<sup>2</sup>

Alexander Hay, clerk to the Privy Council appeared at the Assem-

1. Calderwood, History, vol. ii. p. 160.

2. Cf. pp. 313-4. below.

blies of August, 1573<sup>1</sup> and October, 1576<sup>2</sup> to present 'certain heeds propounded by my Lord Regent's Grace to the Assemblie'. He was little more than a messenger.

It is not until the Assembly of March 1578, over which Andrew Melville moderated, that a reference is made to Commissioners representing the King. At its second session John Craig, John Duncanson and Andrew Hay, ministers, were sent to the Council to request that it should 'direct some of the same as commissioners from his Hienes to assist the Assemblie with thaer presence and counsell'.<sup>3</sup> The Assembly revealed that it desired a Commissioner now to be somewhat different to the passive observer suggested to Queen Mary in 1561. This was due to the Church's believing that the King had the same approach to its problems as it itself had and it was seeking to equate him with their theories of the 'godly Prince' who would desire to reform the Church in a way conforming to what he had been taught by his reformed teachers. It must be remembered, especially, that it would be expected at this

1. B.U.K. p. 277.

2. Ibid. p. 368.

3. Ibid. p. 404.

stage that his political theory would conform to George Buchanan's and not the opposite.

At the next session Lord Herries and Robert Keith, commendator of Deer, were present as the King's Commissioners. These men did not look upon their commission as making them members of the Assembly. When asked their opinion about laying of certain articles before the Council, they answered that 'they came not to vote nor conclude but were directed be the Counsell to heir and sie the proceidings of the Assemblie .... ' Thus for that year, the King's Commissioners, because they were appointed by the Council and were only to report on the proceedings, conformed to the pattern of 1561.

Up until this time the appointments and representative capacity of the Regent's or King's Commissioners are rather indefinite. This is due to no regular practice having been adopted during the period of the Regency. In some cases it seems that the Council is represented by these persons and that they are answerable to it, while at other times it seems that they represented and were answerable to the regent. As King James took over control of the affairs of state the status and



function of the commissioners became definable. In 1578 the King's Commissioners definitely represented the King's person but they were not instructed with the King's power until 1580.<sup>2</sup>

As the place of 'the higher Poweris' and its close association with the place of the King's Commissioners has already been discussed, only a short outline has been given here.<sup>3</sup>

1. Ibid. p. 404.

2. Ibid. p. 452.

3. For an account of the King's Commissioners down to the present day cf. S. Mechie, The Office of Lord High Commissioner. Edinburgh, 1958.

## The Lords.

It cannot be denied that the vital nucleus of those who sat as lords in the General Assembly sprang from the Lords of the Congregation, but the reformers were eager that the Assembly which was the Christian council of all the estates of the nation, as well as the highest court of the Church, should have every one of the lords within its membership. It was therefore the current parliamentary procedure which was taken over by the General Assembly.<sup>1</sup> The dukes, earls, lords of Parliament and barons, who were bound to attend the parliaments in person on receiving a personal summons from the sovereign,<sup>2</sup> were also expected to attend the General Assembly, but, on account of the political situation, the summons of the Queen had to be dispensed with and the Assembly issued the citations itself. This is quite plain from the action of the Assembly of June, 1567 in despatching 'lettres missive, sent to the erles, lords, barrons,

1. Although the reformed Church in France had nobility participating as such in its Synods (J.Quick, Synodicon in Gallia Reformata. London, 1692. vol. 1. pp. 116 et seq.) the Assembly was not directly influenced by this, although both were prompted to do this by the same doctrine.

2. Rait, Parliaments of Scotland. pp. 178 et seq.

commendators of abbayes'.<sup>1</sup> After recounting that the Assemblies had 'now of long time travellit both in public and private with all the estates', the Assembly 'ordainit ane Generall Assemblie of the haill professors of all estates and degries within the kirks of Scotland' which was to be held in Edinburgh on 20th July. The Assembly assumed to itself the authority for summoning the nobility to attend because it did so 'in the name of the Eternal our God' and required in His name that they give their personal presence, labours and concurrence so that 'the haill body may be comforted be the presence and good advyce of so notour ane member therof.'<sup>2</sup> A large number of the nobles obeyed the summons on this occasion<sup>3</sup> and others felt that it was necessary to send an apology.<sup>4</sup>

There is nothing in the records to indicate whether or not a summons was issued to members of the nobility each time an Assembly was convened but it is certain that they were expected to be present.

1. B.U.K. pp. 94-5. The names of those to whom letters were sent is given Ibid. pp. 95-6.
2. Ibid. p. 95.
3. For the names of those who were present cf. Ibid. p. 110.
4. Archibald Campbell, earl of Argyll, Lord John Hamilton, commendator of Arbroath, Gavin Hamilton, commendator of Kilwinning and Robert, Lord Boyd sent apologies. Ibid. pp. 100-2.



The records of sederunts of the Assemblies are defective and in some cases are somewhat indefinite, but there would appear to have been members of the nobility present at every Assembly from the beginning until the Assembly of April, 1576.<sup>2</sup>

The Act of Assembly of July, 1568, which stated that 'none have place nor power to vote, except superintendents, commissioners appointed for visitating kirks, ministers brought with them present as persons able to reason and having knowledge to judge. With the foresaid shall be joynit commissioners of burghes and shires, together with commissioners of universities',<sup>3</sup> presents a problem as it apparently debarred, from that date, the lords, as well as the Privy Council and bishops from membership of the General Assembly. In view of the fact that the lords continued to attend the Assembly for at least eight years after that date, as well as the bishops being expected to attend, the only possible reason for the lords, like the bishops, not being mentioned is that, as in the Three Estates, they were present in their own right unlike those mentioned in

1. Knox, History. vol. ii. pp. 25-7, 51-3, 107. B.U.K. pp. 93, 100, 112, 123, 157, 175, 184, 198, 203, 243, 255, 269, 286, 299, 314.

2. B.U.K. p. 348.

3. Ibid. p. 124.

the Act who, on account of a commission which they received from the body they represented, attended the Assembly. This is confirmed by the action taken by the Assembly of March, 1573 when, on representations being made by the synod of Lothian, it was agreed 'That the Generall Assembly be frequent with the Nobilitie and Barronis, as weill as Ministers, that the face of the Assembly may be had in reverence as in foir tymes.' This was confirmed in August, 1573.<sup>2</sup>

The participation of the lords as an estate of the General Assembly appears to have come to an end when James assumed the government of the realm. It would seem that the most likely reason for this was that they did not receive a personal summons from the King to attend which would have been necessary if parliamentary procedure was to be followed. The important point to notice is that the Assembly did nothing to encourage the lords to attend after this date. This was probably due to the influence of the ideas of the exclusive right of ecclesiastical persons to bear rule in the courts of the Church which were later to appear in the Second Book of Discipline.

1. Ibid. p. 265.

2. Ibid. p. 269.

There were occasions after this when there were lords present but this happened only in exceptional circumstances. At the request of the Assembly of October, 1578, when the Privy Council was meeting in Stirling,<sup>1</sup> John, earl of Atholl, Chancellor, John, earl of Montrose, George, Lord Seaton and Patrick, Lord Lindsay, who were the leaders of the group which opposed Morton,<sup>2</sup> attended the second session when they were asked to assist the Assembly in its negotiations with James and the Privy Council.<sup>3</sup> After the Ruthven Raid, when the General Assembly opened on 9th October, 1582, there were present a number of earls and 'Barrons in great number';<sup>4</sup> Francis Stewart, earl of Bothwell<sup>5</sup> and Lord Claud Hamilton, commendator of Paisley,<sup>6</sup> were present at least for some part of its proceedings. At the Assembly of March, 1590, Francis Stewart, earl of Bothwell, John, earl of Montrose and John, Lord Fleming appeared

1. R.P.C. vol.iii. pp. 40-1.

2. B.U.K. pp. 419-20.

3. Melville, Diary, p. 76.

4. B.U.K. p. 585.

5. Ibid.

6. Ibid. p. 591.



as supplicants for David Graham of Fintry.<sup>1</sup> At the same Assembly, Lord John Hamilton and Ludovic, duke of Lennox, came later to the same Assembly and each offered all 'kind of assistance according to his power'.<sup>2</sup>

In the minutes of the Assembly of August, 1590 there is recorded the attendance of certain nobles whose names are entered with others under certain heading; John, earl of Mar under Stirling; Patrick, Lord Drummond, under Dunblane; James, earl of Moray, Patrick, Lord Lindsay of the Byres, Alexander Colvill, commendator of Culross, under Fife and Mark Ker, commendator of Newbattle, under Dalkeith.<sup>3</sup> It is almost certain that they were not commissioners as there is no record of presbyteries or synods commissioning non-ministers at this time while, in accordance with parliamentary practice,<sup>4</sup> they could not be burgh nor shire commissioners.<sup>5</sup> It would therefore seem that they attended in their own right and that the

1. Calderwood, History. vol. v. p. 86.

2. Ibid.

3. Ibid. pp. 763-5.

4. Rait, Parliaments of Scotland. pp. 194-5.

5. It should be noted that the burgh commissioners are recorded separately (B.U.K. p. 767) while some of the areas mentioned were not shires.

clerk had simply entered their names under such headings. This conjecture is supported by the fact that it is minuted that at the Assembly 'ther was assemblit the Commissioners and Brethren vnderwrytin.' It would seem to be that these 'brethren' wished to attend and the Assembly was still prepared to admit them. The place of the lords in the Assembly thus remained vague and undecided until the General Assemblies were later to receive some of them as elders commissioned by presbyteries to attend as ecclesiastical persons.

1. Ibid. p. 762.

The Superintendents,  
Commissioners and Bishops.

The character and function of the superintendent within the reformed Church in Scotland has been a subject of debate for more than three centuries.<sup>1</sup> The historical studies of recent times have narrowed the debatable points very considerably and much which was once questioned is now generally accepted as incontrovertable.<sup>2</sup> It is outwith the scope of this study to give a complete account of the work of the superintendent only his place within the General Assembly and his relations with it can be discussed. Nevertheless, it can be stated with certainty that the status of the superintendent was very important and to

1. Cf. J. Sage, The Fundamental Charter of Presbytery. London, 1695, J.G. MacGregor, The Scottish Presbyterian Polity, Edinburgh, 1926. pp. 42-47 and J.L. Ainslie, The Doctrines of Ministerial Order in the Reformed Churches, Edinburgh, 1940, pp. 105 - 115.
2. J. Cooper, 'Superintendents and Bishops in the Church of Scotland, 1560-1610', in Historical Papers submitted to the Christian Unity Association of Scotland, Edinburgh, 1914, pp. 34-58 and G. Donaldson, 'The Scottish Episcopate at the Reformation', English Historical Review, vol. lx, pp. 349-364; 'The Polity of the Scottish Church, 1560-1600', Records of the Scottish Church History Society, vol. xi. pp. 212-226 and The Scottish Reformation. Cambridge, 1960. pp. 102-129.



ay 'that the parallel between à Lasco's superintendent, the Swiss visitors, and the Scottish superintendent ends with their inspection of the faithfulness of other ministers' cannot be supported by the facts. It is seen that for the first decade of the Assembly's life, apart from the power of legislation and oversight retained by the Assembly and the strict control which is exercised upon the superintendents, they were the centre of the whole church organisation, like the ecclesiastical figure envisaged by John à Lasco<sup>2</sup> and they continued to play an important part in the Assembly until the rise of presbyteries.

It should be borne in mind that the Assembly did not consider itself competent to appoint superintendents as it felt that it was the responsibility of the State to nominate men to that office.<sup>3</sup>

Here it may be noted that this was one of the great differences

- . MacGregor, op. cit. p. 47.
- . Joannis a Lasco, Opera, (ed. by A. Kuyper) Amsterdam, 1866, vol. ii. p. 58 and Cf. A.F.Mitchell, The Wedderburns and their Work, p. 81 et seq.
- . The Regent and Council were asked to place superintendents where none were B.U.K. pp. 30,128,146 and 148. For complaints regarding the want of superintendents cf. Ibid. p. 158 and The Book of Discipline. V. 1.

between the superintendent and the commissioner for the visiting and planting of kirks. One of the basic reasons for the Assembly proceeding to appoint commissioners instead of superintendents was because it could be done without the co-operation of the civil power.

The office of the superintendent came into the Church because of the situation in which the church found itself at the reformation and was influenced greatly, in this matter, by the continental churches stemming from the Lutheran reformation.

This doctrine of the Crown or Regent appointing the superintendent was taken over from the practice of the German churches where in general the pattern of church order arose out of Philip Melanchthon's Articuli de quibus egerunt per visitatores in regione Saxoniae, Wittenberg, 1527<sup>1</sup> and Unterricht der Visitatoren und die Pfarhern ym Kurfurstenthum zu Sachsen, Wittenberg, 1528.<sup>2</sup> The latter carried a preface by Martin Luther.<sup>3</sup>

1. Reprinted in The Visitation of the Saxon Reformed Church in the Years 1527 and 1528 with introduction by Richard Laurence. Dublin, 1839. pp. 21-54.

2. Ibid. pp. 55-144.

3. Ibid. pp. 57-64.

The Elector of Saxony, for example, appointed Commissioners (Commissare) at the request of the reformers, who were to be responsible for seeing that the visitation of churches was carried out. These commissioners, acting on behalf of 'the godly Prince', in turn appointed superintendents; adopting the latin origin of the word bishop rather than the greek, to exercise ecclesiastical oversight and to give judgement, as the court of the first instant, in matrimonial causes.' The doctrine of the 'godly prince' considered him to be the 'Summepiskopat' with power to reform the church in accord with the word of God: thus, in Lutheran churches when superintendents were appointed, it was done by the civil magistrate.<sup>2</sup>

The appointment of superintendents by the State did not prevent the Church from claiming that the Assembly could move a superintendent

- . F. Winter, 'Die Kirchenvisitation von 1528 in Wittenberger Kreise', in Zeitschriften für die historische Theologie. vol. xxxiii. pp. 295-322. 1863, G. Berbig. 'Die erste kursächsische Visitation in Ortsland Franken' in Archiv für Reformationsgeschichte, vol. iiii. pp. 336-402 and vol. iv. pp. 370-408. 1905-6 and 1906-7 and Bönhoff, 'Die sächsische Landeskirche und die Visitation des Jahres 1539' in Beiträge zur sächsischen Kirchengeschichte. vol. xxxviii. pp. 8-48, 1929
- . A.L.Richter, Die evangelischen Kirchenordnungen des sechszehnten Jahrhunderts. Urkunden und Register zur Geschichte des Rechts und der Verfassung der evangelischen Kirche in Deutschland. Leipzig, 1871. vol. ii. passim.



from one area to another if it was considered in the interests of the Church to do so.<sup>1</sup>

Where a cleric, who had been a diocesan bishop in Scotland prior to the reform, joined the reformed Church, he did not automatically find himself with a status similar to that which he had formerly enjoyed. This was emphasised by the General Assembly, where such ecclesiastics were referred to as 'called' or 'entitled', for example, 'the bishop of Galloway'<sup>2</sup> until they were admitted into the organisation of the church.

The case of Alexander Gordon, bishop of Galloway,<sup>3</sup> illustrates the constitutional position of such bishops within the Church after reformation. He did not immediately identify himself with the reformers as he paid the third of the bishopric of Galloway to the collector-general in 1561<sup>4</sup> which indicates fairly certainly that he was taking no part in the

1. The Book of Discipline. V. 3.

2. Calderwood, History. vol. ii. pp. 207 and 223, B.U.K. pp. 28 and 31.

3. For an account of Alexander Gordon cf. G. Donaldson, 'Alexander Gordon, Bishop of Galloway (1559-1575) and his work in the Reformed Church' in Transactions of the Dumfriesshire and Galloway Natural History and Antiquarian Society. Third Series, 1945-46. vol. xxiv. pp. 111-128

4. The Account of the Collectors of the Thirds of Benefices (ed. G. Donaldson) S.H.S. Edinburgh. 1949. pp. 21, 34, 44.

ork of the church. During the next year he associated himself with the reformers and at the Assembly of June, 1562 he petitioned that court to be recognised as superintendent of Galloway. This would have extended his jurisdiction to Carrick and Dumfriesshire and would have entitled him to the salary of a superintendent in addition to the third of his benefice which would have been remitted to him. His petition was not granted because First, that they understood not how he hath anie nominatioun or presentatioun either by the Lords of Secreit Counsell or province of Galloway. secundarilie, Albeit he had presentatioun of the Lords, yitt he has not observed the order kept in the electioun of superintendents, and, therefore, cannot acknowledge him for anie superintendent lawfullie called, for the present. Yitt they offered their futherance, if the kirks of Galloway could vote, and the lords present. It was ordeaned, that letters be sent to the kirks of Galloway, to learne whether they craved anie superintendent or not, and whom they sought. He was required, before he went frome the Assemblie, to subscribe the Booke of Discipline.' This minute, the accuracy of which is vouched for from the original records,<sup>2</sup> must have been based on some

. Calderwood, History, vol. ii. p. 185.

. B.U.K. pp. xxxiii-iv.

formula as Gordon had signed the Book of Discipline on 27th January, 1561.'

Two points must be noted. The more important aspect was 'that the bishops converted from Poprie were not suffered to exerce jurisdiction ecclesiasticall, by virtue of their episcopall office.'<sup>2</sup> 'The questions of the day were those of Jurisdiction, which the pre-Reformation system derived from Rome - and the Reformers were resolute to derive nothing of the sort from Rome'.<sup>3</sup> Whether or not the bishops were in orders or consecrated made no difference and was not of the slightest importance.<sup>4</sup> The

- . Knox, History, vol. i. p. 345 and Calderwood, op. cit. vol. ii. p. 50.
- . Calderwood, op. cit. vol. ii. p. 207.
- . Re-Union, the Necessary Requirements of the Church of Scotland. p. 27n.
- . Gordon, as far as is known, never received papal provision to the see of Galloway nor consecration as a bishop of the church. (cf. C.G.Mortimer, 'The Scottish Hierarchy in 1560' in Clergy Review. vol. xii. pp. 442-450 and J. Dowden, The Bishops of Scotland. (ed.J.Maitland Thomson) Glasgow, 1912. pp. 293, 349 and 374. This aspect of the matter was never considered by the reformers as the point at issue was not concerned with this. It would have made no difference had Gordon been translated and provided by the Pope and consecrated to the see of Galloway. When the case of Adam Bothwell, bishop of Orkney, is considered, this is confirmed. He was consecrated bishop of Orkney (Dowden, op.cit. p. 268) but yet he was treated in exactly the same way as Gordon.



ppointment of Gordon to the superintendancy of Galloway by the Lords, though secondary to his status within the Church, was also considered essential before he was allowed to take up the duties of a superintendent.

At the following Assembly, December, 1562, the matter was again discussed and it was decided that 'For the planting to kirks in the shirefdoms of Dumfries, Galloway and Nithisdail, the rest of the West aills, the Assemblie nominat in lites for the Superintendentship. Mr Alexander Gordon entituled Bishop of Galloway, and Mr Robert Pont minister of Dunkell: Ordained edicts to be sett furth for the admission upon the next Lords day of April, and appointed the Superintendent of Glasgow, Mr Knox minister of Edinburgh, Mr Robert Hamilton minister of Vchiltrie and Mauchlin, and other learned men, to be present at the inauguration of the person elected; the place of admission to be the parish-kirk of Dumfries. In the meane tyme the Assemblie giveth commission to Mr Alexander to admitt ministers, exhorters and readers, and to doe such other things as war before accustomed in planting of kirks.'

The proposed election never took place. The exact reasons for

this are obscure,<sup>1</sup> but the next Assembly renewed its commission to Gordon to exercise the functions of a superintendent within his own diocese.<sup>2</sup> From 1562 until 1568 he acted as 'commissioner', 'overseer' or 'superintendent' of Galloway and appears to have been present at the General Assemblies during that period.<sup>3</sup> From the accounts of the collectors of the thirds of benefices, Gordon appears to have been recognised as 'overseer' of his diocese by the reformers from 1562.<sup>4</sup> In the following year he is referred to as 'superintendent of Galloway' in the accounts.<sup>5</sup>

He never appears to have been officially appointed a superintendent by the Regent possibly due to the fact that such an appointment would have entitled him to further emoluments over and above the remission of the third of his benefice which no one was prepared to countenance.

He, therefore, never had the status of a superintendent and was similar

1. Knox claims that 'he had corrupted most part of the gentlemen, not only to nominate him, but also to elect him' Knox, History, vol. ii. p. 73. but the account of this matter is somewhat confused especially when Gordon was continued in office, cf. Donaldson, Trans. Dumfriesshire and Galloway.Nat.Hist.and Ant.Soc. Third Series.vol.xxiv.pp.119 and n.

2. B.U.K. p. 32.

3. Ibid. pp. 38, 44, 49, 52, 65 and 77.

4. Thirds of Benefices. p. 150, 146.

5. Ibid. pl 290.

to a commissioner for the visiting and planting of kirks.

The principles applied to Gordon by the reformed church were the same as those which guided the Assembly in its relations with Adam Bothwell, bishop of Orkney and Robert Stewart, bishop of Caithness.

At the beginning, the superintendents were the only direct links between the General Assemblies and the synods. They attended every Assembly in their own right without any election or commission from the lower court. The attendance of the superintendents was enforced. On 28th June, 1563, the Assembly ordered that 'every superintendent convey the first day appointit for the Assemblie, under the paine of fourtie shillings, to be distribute to the poor without remission therof.'<sup>2</sup> This act does not seem to have had the desired effect for at the seventh session of the Assembly of March, 1573 it was decided that 'All Bischops, superintendents and Commissioners to plant kirks present themselves in

Gordon Donaldson, 'Adam Bothwell, and the Reformation in Orkney.'

in The Records of the Scottish Church History Society. vol. xiii.

pp. 85 - 100. and Gordon Donaldson, 'The Scottish Episcopate at

the Reformation' in English Historical Review. vol. lx. pp. 349-364.

2. B.U.K. p. 37.



every Generall Assembly that heir after sall be haldin, the first day of the Assemblie before noone; and that they remaine quhill the end of the same, under the paine of the tinsell of ane halfe of their stipend for ane heir, and nottheless to serve in the meane tyme of the wanting of the said portion of the stipend'.<sup>1</sup> Such a practice had long been used in the Scottish Parliament to enforce attendance<sup>2</sup> and it was under such parliamentary influence that this practice was adopted by the Assembly although a similar procedure of money fines for failure to attend was common in medieval church courts.<sup>3</sup>

Whether the enforcement of the Acts of Assembly were ever attempted is impossible to determine but these enactments demonstrate that it was considered absolutely vital that such personnel should attend regularly.

1. Ibid. p. 263. The fine was not only a great proportion of the stipend but it was a very large amount of money in comparison with the parish ministers stipends. The superintendent received about £ 2,500 or £ 3,000 while ministers' stipends were from £ 400 to £ 600 when expressed in present day values. Thirds of Benefices p. xxii, nl.
2. A.P.S. vol. ii. p. 180.
3. Reg. Islep.fol.117. quoted by D.B.Weske, Convocation of the Clergy, London, 1937. p.95. For a reference to a relaxation of the sequestration of the fruits of St Augustine's Abbey, Canterbury for non-attendance at a provincial synod cf. Registrum Epistolarum Fratris Johannis Peckham, Archiepiscopi Cantuariensis. (ed.C.T.Martin) London.1882. vol.i. p.255.

In him was vested much of the executive power of the supreme court. Many actions initiated in or coming before the Assembly were referred to the superintendent and his court for trial and judgement.<sup>1</sup> He issued summons<sup>es</sup> or requests to those within his area to appear before the Assembly for discipline or for conference<sup>2</sup> and also obtained the written concurrence of laymen to certain actions of the Assembly.<sup>3</sup> Steps could be taken by him to ensure that legal action was taken against persons breaking laws which affected the Church by informing the Justice Clerk although on some occasions the Assembly approached the Justice Clerk direct<sup>4</sup> but this appears to have been done only in actions against persons who were disobedient to the superintendent.<sup>5</sup> No minister could pronounce sentence of excommunication without the permission of the superintendent.<sup>6</sup>

1. B.U.K. pp. 16, 41-2 etc.

2. Ibid. pp. 15-16, 92 and 96.

3. Ibid. p. 106.

4. Ibid. pp. 18-19.

5. Ibid. p. 19. The General Assembly considered it necessary that the superintendent should be obeyed not only by all ministers, which was ordered by the Assembly of June, 1562 (Ibid. pp. 14-15), but also by all laymen within their bounds and the Queen was petitioned to remedy any such disobedience in December, 1562. (Ibid. p. 23.)

6. Ibid. pp. 16, 74-5.

Often the superintendent was not only the spokesman for the ministers of his synod within the General Assembly but, when representations had to be made on their behalf to the Crown or the Privy Council, he took the necessary action to bring such matters before them.<sup>1</sup> He did not simply repeat what had been decided in the synod or Assembly. He, being more than a permanent moderator, took such initiative as was necessary in all the affairs of the synod and was not merely bound to put into effect the decisions of the synod or the Acts of General Assembly. This was obviously necessary when the synod only met twice annually in April and October.<sup>2</sup> At other times, if judicial action had to be taken, the superintendent convened the kirk session of the main town or one of the main towns in his diocese or area over which he had control and this constituted his court;<sup>3</sup> some cases, of course, were heard by the synod when it was in session.<sup>4</sup>

1. Ibid. pp. 16, 40-1.

2. Ibid. p. 29.

3. Warrender Papers, vol. A. fol. 98. quoted by Donaldson, The Scottish Reformation. p. 122 and cf. Ibid. pp. 122-3.

4. Report on Manuscripts in Various Collections. Historical Manuscripts Commission. Hereford. 1909. vol. v. pp. 99-101.



The superintendent had full controll over the ministers within his own area or diocese. He could move them as he wished 'with consent of the maist pairt of the elders and ministers of kirks' 'in there assemblies synodall' and had power over them which had been delegated by the Assembly to him. At times, the scope of such supervision seems to have been almost inquisitorial. For example, in the Assembly of June, 1562, it was enacted that the superintendents 'take count what lookes every minister hes in store in the tyme of their visitation, and how the said minister, and every ane of them, does profite from tyme to tyme in reiding and studying the samein.'<sup>2</sup>

The right of appointment to benefices, while sometimes in the hands of the General Assembly,<sup>3</sup> was usually delegated to the superintendent. He had generally the power of appointment, translation and deprivation and the right of collation was from the beginning invariably vested in him.<sup>4</sup> Shortly after the Order in Council which was made

. B.U.K. p. 29.

. Ibid. p. 15.

. Ibid. pp. 17-18, 29 etc.

. Ibid. pp. 16, 29.

egarding the collation to benefices of less than 300 merks in  
 alue,<sup>1</sup> an Act of Parliament confirmed the superintendents' right  
 f collation and added that where the patron did not make a presentation  
 o the benefice within six months, the superintendent had the right  
us devolutum to presentation and collation.<sup>2</sup> The Assembly of March  
 1574 added the stipulation 'That no Superintendents nor Commissioners  
 or planting kirks, have or sall give collation of benefices, nor  
 dmitt Ministers, without the assistance of thrie of thair qualified  
 inisters of thair province, quho also sall give thair testimonialls to  
 he saids Superintendents, or Commissioners, subscrivit with thair  
 ands, in signe of thair consent therto; And, in lyke manner, That  
 o Bishop give collatioun of any benefice within the bounds of the  
 uperintendents within his dyocie, without thair consent, and  
 estimonialls subscrivit with thair hands: And, that Bishops within  
 hair awin dyocies, visite be themselves, quher no Superintendents are;  
 nd give no collatioun ordinar vpon benefices, without consent of thrie  
 ell qualified Ministers, as said is, of Superintendents and Commis-

. R.P.C. vol. i. pp. 488-89

. A.P.S. vol. iii. p. 23.

ioners to plant kirkis.' This was probably passed in order to meet some of the objections of the anti-episcopal party and to clarify some of the aspects of the relations between superintendents and bishops.

Nearly all the monies used for the running of the Church were outside its own control but the oversight of the spending of such money as the Church had was in the hands of the superintendents, always under the ultimate direction of the Assembly. They had to ensure that the accounts of each congregation were properly kept. The instructions appear in the First Book of Discipline. 'The Deacons shall be bound and compelled to make accounts to the Ministers and Elders of that which they have received, as oft as the Policy shall appoint. And the Elders when they are changed (which must be every year) must clear their accounts before such auditors as the Church shall appoint. And both the Deacons and Elders being changed, shall deliver to them that shall be now elected, all sums of money, corns and other profits resting in their hands; the tickets (i.e. vouchers) whereof must be delivered to the Superintendents in their visitation, and



y them to the Great Council of the Church ..... If this order be  
 recisely kept, corruption cannot suddenly enter.'<sup>1</sup> Whether this was  
 crupulously carried out is doubtful but the intention which lay  
 ehind such legislation shows that the Assembly saw the obvious need  
 t that time of a financial control which could of necessity only be  
 ested in permanent executive officials.

It should be remembered, in this connection, that the deacons only  
 andled the alms for the poor<sup>2</sup> as the Collectors of the Thirds of Benefices  
 oncerned themselves with the stipends of all ministers, other than those  
 aid by burghs, in which case the town council looked after the matter,<sup>3</sup>  
 nd the universities managed their own financial affairs.

Another example of the superintendents' concern with financial  
 ffairs is seen during the period from 1567 to 1572 when the Assembly  
 ontrolled the Collectors of the Thirds of Benefices.

- . The Book of Discipline, 'The Sixth Head, of the Rents and Patrimony  
 of the Kirk' in Knox, History, vol. ii. p. 305.
- . Ibid. vol. ii. pp. 302-6.
- . Extracts from the Records of the Burgh of Edinburgh, (ed. by Sir J.D.  
 Marwick) Scottish Burgh Record Society. Edinburgh, 1875-82. vols. iii  
 and iv. passim.

The General Assembly had been anxious since the 1560 Parliament to improve the financial position of the Church. At the first General Assembly after the accession of James it was natural that it took the opportunity to review the position. A special committee was set up 'to conveye to sie and advyse upon the assignatioun of the stipends of the ministrie latelie assignit be the Queens Majestie the good payment.'<sup>1</sup> It reported on 23rd July, 1567. After giving a detailed account of the position in each of the collectories,<sup>2</sup> it added a memorandum.

'That the Act ratified made be the Queens Grace and Secreit Counsell, dischargeand the gifts and taks of all the thrids; and that none should be givin heirafter without advyse of the Secreit Counsell, to the effect the collector may charge notwithstanding any sick gifts.'

'Remember that ilk collector execute within his bounds, that lettres be directit with consent of the thesaurer according to the first article.'<sup>3</sup>

1. B.U.K. p. 104.

2. Ibid. pp. 104-105.

3. Ibid. p. 105.

In a Commission, which the Assembly sent to the Reviser of the Rolls of Ministers Stipends, no radical change was suggested.<sup>1</sup> The one interesting point is that the superintendents and commissioners for the visitation of kirks were to receive the rolls of appointment of stipends from the keeper of the book of ministers stipends 'after the said superintendents and commissioners have diligently marked these that are dead, or have not diligently waited on their charges, as they will answer to God and the kirk therupon' were 'to deliver the rolls to the said collectors.'<sup>2</sup> Such a remit illustrates the power of the superintendents.

At the same Assembly Articles were drawn up for submission to the State containing certain requests for the improving of the stipend system 'quhill ane perfyte ordour may be tane and establishit toward the full distribution of the patrimonie of the kirk according to Gods word.'<sup>3</sup>

The first Parliament of the new reign drew up an Act as a result of the Assembly's demands. The main points were that 'the haill thrids of the haill Benefices of this Realme, sall now instantlie,

1. Ibid. pp. 105-6.

2. Ibid. p. 105.

3. Ibid. p. 107.



nd in all time to cum, first bee payed to the Ministers of the  
 Evangell of Jesus Christ, and their successors' and that the Court  
 of Session should 'grant and gif letteris chargeing all, and sundrie  
 ntromettouris, or that beis addettit in payment of the samin, to  
 answer and obey to the saidis Ministeris, and their Collectouris, to  
 be nominat be the saidis Ministeris, with auise of my Lord Regent.'

As a result of this Act giving the power of appointing the  
 collectors to the Church, the Assembly, meeting at the same time as  
 the Parliament, set up a committee of twelve or thirteen brethren to  
 choose collectors.<sup>2</sup> Formulae of appointment and regulations governing  
 the collectors' duties were also drawn up.<sup>3</sup>

Thus for the first time the claims of the Church to the thirds  
 of benefices took precedence over all others. The results of these  
 changes which seemed to give promise of better days for the Church were  
 a great disappointment both to the Church and the Crown. 'While the  
 sum of the thirds may have been insufficient to pay adequate stipends

1. A.P.S. vol. iii. p. 24.

2. B.U.K. p. 117.

3. Ibid. pp. 117-119.

and leave a residue for the household, the organisation of the collectory under the church had certain inevitable weaknesses and the unsettled state of the country made the collection of thirds difficult and legal proceedings for their recovery ineffective.<sup>1</sup> The situation did not improve and when the state took over the management of the Thirds of Benefices again in 1572<sup>2</sup> the superintendents and the Church had nothing further to do with it.

The bishops who were appointed as a result of the Concordat of Leith were treated in exactly the same way as the superintendents, commissioners and bishops who had held office since the beginning. Although the Act of Assembly stating this was not passed until the following year,<sup>3</sup> the Assemblies acted on this principle from the time of their appointment.<sup>4</sup> They were expected to play their part in the Assembly and to be subject to it as the others were. An important matter was raised when a committee of the Assembly of March, 1572 found 'That hereafter in these things concerning the function of the Kirk,

1. Thirds of Benefices. p. xxx.

2. B.U.K. pp. 232-4 and R.P.C. vol. ii. pp. 111-3.

3. B.U.K. p. 294.

4. Ibid. p. 288.

they shall use the name of Bishop and not Archbishop.<sup>1</sup> No Act of Assembly was passed in these terms but the Assemblies always referred to those appointed to the archbishoprics as bishops.<sup>2</sup> This shows that some were aware that any archi-episcopal function could not be vested by the crown or anyone else in an individual as this function appertained to the General Assembly alone. To anyone who knew the history of the controversy between the archbishops of St Andrews and Glasgow with the resultant lack of discipline and control within the Church in Scotland,<sup>3</sup> this was of vital importance if the Church was to be constantly ruled and disciplined.

The question of the oversight and control to be exerted over the bishops was basic and fundamentally different constitutional theories lay behind the various solutions which could be offered. If the godly prince or godly magistrate was the summus episcopus then he, as the godly reformer, was the person which was empowered to ensure that the bishops remained godly. The Assembly, however, had gradually grown to think of itself as the summus episcopus and therefore it was not only anxious to

1. Ibid. p. 246.

2. Ibid. passim.

3. D.E. Easson, Gavin Dunbar, Edinburgh. 1947. pp. 66 et seq.



ensure that the bishops did their work well but that they recognised the authority of the General Assemblies over them. This was a problem which was not solved for a long time and was due in part to the fact that the disputants did not really understand the constitutional problems involved.

The Assembly used the subordinate courts and its own authority to enforce oversight and control over the episcopate as well as the superintendents and commissioners.

The Assembly of March, 1573 made the superintendents and others answerable to the synod.<sup>1</sup> Although the large amount of work involved was given as the reason for the Assembly of October, 1576 handing over the examination of the books of visitors and commissioners to synods,<sup>2</sup> it was, however, not unconnected with the passing of the Act of March, 1573. This is obvious when it is noted that the Assembly in April, 1593, after the passing of the Act of Parliament of 1592, resumed the inspection of synod records.<sup>3</sup>

1. Ibid. p. 266.

2. Ibid. p. 366.

3. Ibid. pp. 814-5.

The decision of March, 1573 was not accepted without much debate as is seen, for example, in the resistance of James, at the Assembly of May, 1586, to the synod having the power to depose the bishop or commissioner.<sup>1</sup>

The matter was settled, for the time being, by the Act of Parliament in 1592 when it was enacted that the synod 'hes power to depose the office beraris of that province for gude and iust caussis deserving deprivation.'<sup>2</sup>

The Assembly diligently exerted its supervision over the bishops. George Douglas, bishop of Moray, was accused of fornication before the Assembly and successive Assemblies had this case under consideration from March, 1574 until August, 1575.<sup>3</sup> It was also insistent that a bishop should not be elected to a bishopric by the chapter until he had given proof of his doctrine to the Assembly and trial had been made of his doctrine, life and conversation.<sup>4</sup> An unsuccessful attempt was made to

1. Ibid. p. 665.

2. A.P.S. vol. iii. p. 542.

3. B.U.K. pp. 288, 295, 323, 326, 333.

4. Ibid. pp. 326-7.

have an Act of Parliament passed in these terms. The Assembly of March, 1575 examined Andrew Graham, bishop of Dunblane and Alexander Hepburn, bishop of Ross.<sup>1</sup> The first was instructed to preach on the first part of the fifth chapter of the Epistle to the Romans<sup>2</sup> and the latter on a part of the Book of the Prophet Zachariah.<sup>3</sup> They both almost certainly preached in accordance with these instructions and were accepted by the Assembly as bishops. Although the minutes only record this in the case of Hepburn,<sup>4</sup> Graham appears as bishop of Dunblane and is examined as such at the next Assembly.<sup>5</sup>

Although the Church and its Assemblies during the early decades were not in accord about the biblical basis of diocesan episcopacy,<sup>6</sup> the Assemblies were quite certain of their superiority to the episcopate and continued to act in the manner which it had initiated. This was demonstrated for example by the action taken by the Assembly of October,

1. Ibid. pp. 326-7.

2. Ibid. p. 325.

3. Ibid. p. 321. The exact portion is uncertain cf. Ibid. p. 326.

4. Ibid. p. 366.

5. Ibid. p. 331.

6. Ibid. pp. 340-3, 352-3.



1578 against James Boyd, archbishop of Glasgow.<sup>1</sup> Some cases dragged on for years as can be seen in the Assemblies' process against Robert Montgomery.<sup>2</sup> The most important was the Assemblies' action against Patrick Adamson which started in October, 1576<sup>3</sup> and continued<sup>4</sup> until the decision of the Assembly of July, 1580<sup>5</sup> when, after some hesitation,<sup>6</sup> he complied. He cooperated with the Assemblies<sup>7</sup> until he gradually began to withdraw in October, 1582.<sup>8</sup> His position, after he had been pressed to attend the courts of the Church,<sup>9</sup> became clear in May, 1586 when his statement was read to the Assembly.<sup>10</sup> The subsequent happenings can be read in the records of the Assemblies<sup>11</sup> until Adamson was deprived 'from

1. Ibid. pp. 420-1, 423-4.

2. Ibid. pp. 544-7, 557-66, 569, 571-5, 578, 580-3, 590, 599, 607-9, 691 and 700.

3. Ibid. p. 367.

4. Ibid. pp. 376-7, 385, 403, 420, 422-3, 432-3.

5. Ibid. p. 453.

6. Ibid. p. 464.

7. Ibid. pp. 469, 471, 531-2, 537, 539, 545, 548, 550, 566, 570.

8. Ibid. p. 593.

9. Ibid. pp. 614, 623, 628, 634, 637, 640, 655, 657-8.

10. Ibid. pp. 662-3.

11. Ibid. pp. 667, 689-91, 699, 705, 707-8, 711, 719, 727, 731-2, 735-6.

all functions in the Church' by the Assembly of June, 1589.<sup>1</sup> He was forced eventually to make his 'recantation' before the synod of Fife on 5th April, 1591.<sup>2</sup>

The Assembly of June, 1587 made it quite clear that by that date the Church was in control of the situation by declining to admit William Erskine to the archbishopric of Glasgow<sup>3</sup> and Robert Pont to the bishopric of Caithness.<sup>4</sup>

Succeeding Assemblies were troubled about the spiritual estate in parliament.<sup>5</sup> The root cause of the trouble was that the bishops were in parliament by virtue of their appointment to their sees by the crown and the Church had no control over their place or function within the Three Estates. The Assembly was not against persons appointed by the Church taking seats in parliament<sup>6</sup> in spite of statements to the contrary in the Second Book of Discipline. In

1. Ibid. p. 746.

2. Melville, Diary. pp. 290-2.

3. B.U.K. pp. 690, 693.

4. Ibid. pp. 688, 696-8.

5. Ibid. pp. 419 and cf. p. 425. para. 3.

6. Ibid. p. 606.

fact the Assembly, at the end of the century, the Church declaring itself to be 'the third estate of the country', pressed for a place in the parliaments.'

A commission, which had been appointed by the Assembly of May, 1597,<sup>2</sup> met during the sitting of the parliament of December, 1597 and 'urged the articles anent the Kirks vote in Parliament'.<sup>3</sup> This resulted in the passing of the Act of Parliament, 'All ministers provided to Prelacies, suld have vote in Parliament'.<sup>4</sup> According to the report of the Commission to the Assembly this did not have the support of 'the far greatest part of the Lords; but the Kings Majestie conveyed our suits with such wisdom and dexterity in our favours, that in end, after many hard answers, his Majestie procured, that he might dispone the whole great benefices to Ministers; and that such Ministers as should be admitted thereto, should have vote, but prejudice alwayes to the present discipline and jurisdiction of the Kirk in any point.'<sup>5</sup> What the exact meaning of 'the present discipline and jurisdiction of the Kirk' was

1. Ibid. p. 893.

2. Ibid. pp. 927-8.

3. Ibid. p. 931.

4. A.P.S. vol. iv. p. 130.

5. B.U.K. pp. 930-2.



neant to convey is difficult to determine.

The action of the Commission was approved after 'The said question being at verie great lenth reasonit and debaitit in vtramque partem.'

<sup>1</sup>

The Assembly was very divided on this subject and the Commission's action was only approved by a majority of ten votes.<sup>2</sup> The Assembly, earlier in

the debate, had 'allowit the honest and godlie intentioun of the Commissioners in craveing vote in Parliament for the Ministrie, as conforme and

agreeing to sundrie vther acts of the Assemblies preceeding, in the

quhilk it hes bein found expedient that the Kirk suld sute vote in

Parliament.'

<sup>3</sup> At the next session the discussion of the matter continued.

Problems, which ought to have been faced at the initial stages when

agitation for votes in parliament began, now came up for consideration.

The Assembly laid claim to the same number of seats in the Three Estates

as had been occupied by the spiritual lords in the pre-reformation

parliaments. The other aspects were more difficult. After discussion,

it was decided 'that the electioun of sick of the Ministrie as sould have

1. Ibid. p. 945.

2. Ibid. p. 957.

3. Ibid. p. 945.

vote in Parliament, aucht to be of ane mixt qualitie, and appertaine partlie to his Majestie, and partlie to the Kirk. And because, through shortness of tyme, the brethren could not be perfytelie resolvit in the remanent heids and circumstances concerning the office of him that sould have vote in Parliament, viz. de modo eligendi; of his rent; of the continuance of his office, whither he sould be chosin ad poenam, or not; of his name; of the cautions for preservatioun of him from corruptiouns, and sick vther circumstances.<sup>1</sup> After the presbyteries and synods had considered this, three from each synod were to convene with the 'Doctours of the Vniversitie' when summoned by the king to meet with him. If these persons could agree then the matter was to be decided forthwith and if not it was to be referred to the next Assembly.

A long report was submitted at the General Assembly of March, 1601 and certain Acts passed.<sup>2</sup> These actions, because of subsequent events, were ineffective. When various ministers were appointed to the bishoprics,<sup>3</sup> any control which the Assembly might have been able to exercise became impossible.

1. B.U.K. p. 946.

2. Ibid. p. 954-6.

3. Spottiswood, History. vol. iii. p. 82.

## Ministers.

The ministerial members of the Assembly, at first, were present only if they were instructed to attend by the superintendent.<sup>1</sup> All other Ministers were forbidden to leave their parishes unless they were parties in some case.<sup>2</sup> This was a continuation of the practice of the medieval church,<sup>3</sup>

1. B.U.K. pp. 14 and 124; 'Lord Chancellor Glamis and Theodore Beza' p.97.
2. Ibid. p. 14.
3. When the King sent a summons to the prior and convent of Glastonbury issued on 30th October, 1214, to attend a council at Reading. He requested the prior to bring with him five or six of the more discreet and more mature members of his chapter (quinque aut sex de discretioribus et maturioribus Capituli vestri) Rotuli Letterarum Clausarum, (ed. T.D.Hardy) London, 1833, vol. i. p. 176. In 1256, the bishop of Lincoln issued a summons in his diocese, on 31st January, concerning the forthcoming Convocation. He asked the dean to bring with him 'certain discreet canons' and the archdeacons to bring 'three or four of the more discreet men of their archdeaconries.' Matthaei Parisiensis Chronica Majora. (ed. J.R. Luard) London, 1872-84, vol. vi. (Additamenta) p. 314. A summons issued by the Archbishop of Canterbury in 1273 to his suffragan bishops to a Convocation at the New Temple, London, requested them to bring with them three or four persons of greater, more discreet and prudent men of their churches and dioceses (3 vel 4 persones de majoribus, discretioribus et prudentioribus suae ecclesiae et dioeceseos). The Register of Bishop Godfrey Giffard (1268-1301). (ed. J.W. Sillis Bund). Worcestershire Historical Society. Oxford, 1898-1902. vol. ii. p. 58.



and the Assembly was directly influenced in this matter by the procedure for the assembling of the sixteenth century provincial synods in Scotland. When the list of those present at the Provincial Synod which met at Edinburgh, on 27th November, 1549<sup>1</sup>, is consulted, although it is difficult to ascertain just exactly how every member was appointed, it seems likely that Dowden's opinion is correct 'that the primate and bishops invited whom they would'<sup>2</sup> and that 'the bishop of each diocese enjoyed a large discretion as to whom he would summon' to the provincial synod and 'that he chose men whom he thought most capable to give counsel and advice.'<sup>3</sup> The letter sent by John Hamilton, archbishop of St Andrews, to James Beaton, archbishop of Glasgow, summoning a provincial synod to meet in Edinburgh on 1st March, 1559,<sup>4</sup> confirms this. The relevant portion of the letter is as follows, 'Furthermore, we earnestly, as said is, entreat and exhort you in the Lord, that ye, as it may seem best to your most reverent grace to forward the matter, do take steps by your authority

1. Statuta Ecclesiae Scoticanæ (Concilia Scotiae). (ed. by J. Robertson) Bannatyne Club. Edinburgh. 1846. (later referred to as Statuta). pp. 82-5.
2. J. Dowden, The Medieval Church in Scotland. Glasgow. 1910. p. 237.
3. Ibid. pp. 238-9.
4. The letter of 31st January, 1559 is printed in Statuta. pp. 140-3.

as ordinary to cite, summon, and advertise the reverend and venerable fathers, the lord bishops your suffragans, and the abbots, priors, commendators, deans, provosts, and other circumspect churchmen, your subjects; and such delegates from the chapters and clergy of your cathedral, city, diocese, and province of Glasgow as have the greatest distinction, experience in law, and prudence in affairs'.<sup>1</sup> Two letters written as a result of this supply additional information. Archbishop Beaton, directed his rural deans 'to lawfully warn all and sundry the abbots, priors, commendators, usufructuaries, ministers, preceptors, provosts and the more eminent and more excellent rectors and vicars-perpetual of parish churches, established within your deanery, and chiefly' five rectors who are named, to attend the Provincial Synod.<sup>2</sup> Malcolm Fleming, vicar general of Whithorn wrote in similar terms to one of the rural deans, Michael Hawthorn, who held the deaneries of Farines and Rinns conjointly, and three rectors are named.<sup>3</sup> Thus it would appear that some of the parochial clergy were summoned to the synod but 'their nomination seems to have rested with each bishop for his

1. D. Patrick, Statutes of the Scottish Church, 1225-1559. S.H.S. Edinburgh 1907. p. 152.

2. Ibid. pp. 153-154.

3. Ibid. pp. 154-156.

own diocese.<sup>1</sup> Such parochial clergy were not representative in the strict sense as they were never elected by their fellows. From 1562 until 1568 the superintendents under the direction of the Assembly continued, as the bishops had done in the pre-reformation Church in Scotland, to select certain clergy from within their own dioceses to be present in the General Assembly. All other ministers were forbidden to attend except those who were involved in matters to be decided by the Assembly.<sup>2</sup>

This procedure does not seem to have been adhered to for at the Assembly of July, 1568 it is recorded that 'heretofore all Ministers that would come were admitted to have vote.'<sup>3</sup> So some new method of selection of commissioners had to be found when the former practice had broken down.

It was decided that the procedure of the superintendents and commissioners appointed for the visiting of kirks bringing certain of the ministers within their provinces 'presentit as persons abill to

1. Dowden, Medieval Church in Scotland. p. 238.

2. B.U.K. p. 14.

3. A. Petrie, A Compendious History of the Catholick Church, From the Year 600 untill the Year 1600. Hague. 1662. p. 359.



reason, and having knowledge to judge' should continue. Due to the lack of parliamentary action in arranging some form of election and status within the constitution for Commissioners for the Shires and the need for some regulated representation of both ministers and others in the General Assembly from the lower courts, a new type of Commissioner for Synods was instituted. It was enacted that 'Ministers and Commissioners of Shyres sall be chosen at the synodall conventioun of the dioces, be consent of the rest of the ministers and gentill men that sall convene at the said synodall conventioun.'<sup>2</sup> Thus, it is only from 1568 that elected representatives from the synod are permitted to attend the Assembly.<sup>3</sup>

Even the sending of elected members of the diocese to act on behalf of all the parochial clergy was no innovation; this had been a common practice in the medieval church. Procurators elected and endowed with full

1. B.U.K. p. 124. When this is compared with the Act of Assembly of June, 1562 (B.U.K. p. 14) there are no grounds for claiming, as Dr. Thomas Leishman does, that 'these last were selected by the provincial synods, and changed at each Assembly'. 'Neglected Provision and Remediable Defects in the Presbyterian Organisation and its better Adaptation to Existing Needs' in Scottish Church Society Conferences. Second Series. vol. ii. p. 54.
2. B.U.K. p. 124.
3. For Commissioners of Shires see pp.206f. below.

powers acted very frequently on behalf of the diocesan clergy. For example, 'it is certain that representatives of the lower clergy were expected to attend (the Scottish Parliament) in the second half of the fourteenth century the clearest instance belongs to the year 1367, when the diocesan clergy of St Andrews and of Glasgow were represented in a Parliament at Scone.'<sup>1</sup>

There were occasions too when procurators must have been elected to attend diocesan gatherings of the clergy when matters affected their interests were discussed and agreed upon. One or two examples may be given. There is a record of a council of clergy of the diocese of Dunblane held on 13th July, 1465 at which lesser clergy were present.<sup>2</sup>

A draft 'Monition to pay a certain contribution or tax imposed throughout the whole Catholic church of Scotland for the maintainance of ecclesiastical liberty and the preservation of the commonweal of the realm' refers to 'the last convention of a most reverend and the reverend and venerable fathers in Christ, the lords the ordinaries of this kingdom and other prelates and inferior beneficed clergy assembled with us at our city

1. Rait, Parliaments of Scotland. p. 172.

2. Statuta, vol. i. pp. ccxlv-vii.

of St Andrews ....., (voting) on behalf of themselves and the other prelates and beneficed clergy who were absent.<sup>1</sup> Those who voted for the beneficed clergy who were absent must have been procurators, in the same way as commissioners were to parliament.<sup>2</sup> Another 'Monition' refers to 'the lords the ordinaries of the dioceses and other inferior prelates and distinguished beneficed churchmen then present and representing the whole church of Scotland' at a general convention

1. Ibid. vol. i. p. ccliv. It should be noted that in England the 'claim of the lower clergy, made in 1255, that the prelates could not rightfully pledge them to the payment of taxes without consultation, seems to have been observed in practice by the prelates thereafter'. Such appears to have been the case in Scotland also. But 'against the papal plenitudo potestatis the claim could not hold good. If the pope authorised the bishops or other prelates to decide on behalf of the lower clergy, the decision was binding on the lower clergy' (W.E.Lunt, 'The Consent of the English Lower Clergy to Taxation during the Reign of Henry III' in Persecution and Liberty. Essays in Honor of George Lincoln Burr. p.169.
2. The word 'procurator' is used in commissions to parliamentary commissioners from at least the fifteenth century. cf. 'Mandate to the Burgh Commissaries of Kinghorn for Parliament in 1475' in S.H.R. vol. xviii. pp. 235-6 and 'Commissio burgi ad parliamentum' in Aberdeen MS. Burgh Register of Sasines, p. 108, printed in S.H.R. vol. xxxiv. p. 94.



of clerics.<sup>1</sup>

Records of meetings of parochial clergy to elect procurators in Scottish dioceses are not extant but such meetings must have taken place. This can be shown from the practice of the church in England where proctors were frequently elected to represent the rectors of parish churches and others in Parliament and Convocation.<sup>2</sup>

1. Statuta. vol. i. pp. cclvii.

2. Proctors representing rectors and vicars were present at a convocation which was held at the New Temple, London on 14th October, 1269. (Wilkins, Concilia Magnae Britanniae et Hiberniae, London, 1737. vol.ii. pp.19-20) but it was not until the convocation which was summoned to meet at the New Temple in London in May 1283 that it was first arranged that in each diocese two proctors should be elected to represent the parochial clergy. (Reg. Epist. Peckham, vol. ii. pp.508-9). On 19th August, 1294, Edward I summoned the whole clergy of the realm to an assembly at Westminster on 21st September and the parochial clergy were represented by two proctors from each diocese. (W.Stubbs, Selected Charters and other illustrations of English Constitutional History, Oxford, 1900, pp. 480-81.) In the same way, when a Parliament was summoned on 30th September and 1st October, 1295, parochial clergy were to send two proctors for each diocese. (Ibid. pp. 484-85) On both of these occasions the words 'plenam et sufficientem potestatem' is used.

Whatever was the practice there in this matter, Scotland did the same.<sup>1</sup>

The practice of the synod electing commissioners continued from 1568 into the next century. A parallel movement started when presbyteries began electing commissioners. This appears to have started at an early date.<sup>2</sup> Nothing could be done officially about this until the status of presbyteries was given a legal basis in 1592.<sup>3</sup> The two courts continued to send commissioners for five years after that date as a decision was not made until the Assembly of March, 1598. This strange

1. 'The most singular fact is that so much of the Scottish canon law was borrowed directly from England'. The 'conclusion is inevitable that Scottish churchmen as a body did ..... look instinctively to the church of England as the branch of the Catholic church from which they were sprung, and by a tradition established in the eleventh century assume that laws and institutions and usages approved by English churchmen for English dioceses were *prima facie* likely to be the most suitable for Scottish needs'. Patrick, Statutes. pp. lii. and liv.
2. 'Ane Commission to the Generall Assembly of June 1589' in The Wodrow Miscellany. Edinburgh, 1844. vol. i. pp. 527-8.
3. A.P.S. vol. iii. pp. 541-2.

system was continued and at its second session, although the number of commissioners from synods had declined, it was 'statute and ordainit, that every Synod sall choose out them that salbe thoght most meit to come as Commissioners to the Generall Assemblie',<sup>1</sup> and steps were taken to enforce attendance.<sup>2</sup> The problem of the commissioners from presbyteries was overlooked until the last session when it stated that 'Because there bein no ordour sett downe hitherto anent the number of Commissioners (to be ) direct from every Presbitrie to be sent to the Generall Assemblie, Therfor it is statute and ordanit, that, in all tyme comeing, thrie of the wysest and gravest of the brethren salbe direct from every Presbytrie at the most, as Commissioners to every Assemblie; and that none presume to come but commissioun, except they have speciall complaint; and that the Clerk of the Assemblie to take heid to receive no more in commissioun bot thrie allanerlie, as said is;'<sup>3</sup>

The presbytery has since this date sent commissioners to the

1. B.U.K. p. 935.

2. Ibid.

3. Ibid. p. 947.



Assembly although the actual number of commissioners which each presbytery had been permitted to send has been changed by enactment from time to time. While the sending of commissioners from synods appears to have petered out at the beginning of the seventeenth century.

The expenses of ministers attending the Assembly must have been considerable but there is little which can now be discovered about this matter. The Town Council of Edinburgh appears to have paid the expenses which were incurred by the ministers of the burgh whether he attended as a burgh commissioner<sup>1</sup> or otherwise.<sup>2</sup> There was an attempt made by the Assembly of 1598 to produce a system which would assist certain ministers commissioned by synods. With a view to improving the representation of synods, in cases where a commissioner could not reasonably be expected to attend because of the expenditure involved, it was enacted that the rest of the commissioners from that synod 'shall contribute to his expenssis, according to the abilitie of thair livings, vnder the paine of the tinsell of the tenth part of thair stipends;

1. Extracts Burgh Rec. Edinburgh. vol. iv. p. 168. cf. pp.200, 204. infra.

2. Extracts Burgh Rec. Edinburgh. 1589-1603. p. 267 and Edinburgh Burgh Treasurers' Accounts, M.S. 1596-1612. p. 259.

quhilk Commissioners beand sa furnischit be ane commoun contributioun,  
as said is, he sall repaire to the Generall Assemblie, and remaine  
vnto the finall end therof, vnder paine of the tinsell of the tenth  
part of his awin stipend.<sup>1</sup> There is no record of how this worked out  
in practice.

1. B.U.K. p. 935.

## Non-Ministerial Representation in the General Assembly.

The presence in the Assembly of men who were not clerics was no reformed innovation. The concept 'quod omnes tangit, ab omnibus approbetur' was a phrase which was invariably used to express a fundamental tenet in canon law and canonistic doctrine.<sup>1</sup> When a matter of faith was in dispute it was an accepted principle that laymen as well as clergy must be consulted. 'Ubi de causa fidei agitur, tam laici quam clerici debent interesse'.<sup>2</sup> The greatest interest paid to this question was when the requirements for valid canonical elections and representative assemblies were considered.<sup>3</sup>

The principle of lay participation in church assemblies and commissions was gradually reduced to a technical formality<sup>4</sup> while on other occasions, laymen were absolutely excluded.<sup>5</sup> It was not until the

1. M.J.Congar, 'Quod omnes tangit, ab omnibus tractari et approbari debet', in Revue historique de droit français et étranger. 1958. pp.210-257.
2. Richard de Lacy in his Apparatus on Compilatio Prima. De haereeticis, c. ab abolendam, s.v. consilio. fol. 71 verso of W 122 quoted by Walter Ullman, Medieval Papalism. The Political Theories of the Medieval Canonists. London, 1949. p. 21. n.3.
3. cf. Ullman, Ibid. p. 21. n.4.
4. Dowden, Medieval Church in Scotland. pp.19-21. Laymen were present, however, at the command of the king, at the Legatine Council at Perth in 1212. J.de Fordun, Scotichronicon (ed.W.F.Skene) Edinburgh, 1871. lib.viii. cap.78
5. Pope Lucius III (1181-85) excluded laity from taking part in the formulation of principles of faith. Gregoriana. V. vii. 9.



fourteenth century, under the influence of the conciliar movement that the position and place of the laity within the church was again discussed but it had no effect upon synodical or other ecclesiastical councils. If laymen were present in church assemblies in the last few centuries prior to the reformation, they did not have any real status and they had no vote.

There are, of course, many instances of strong lay influence exerted on the church and even on the papacy itself but there was no legal nor constitutional basis for such actions, although it is understandable that such pressure would mount as the laity was gradually extruded from the government of the medieval church.

Using the organisational machinery of the civil government, the assembly soon had the election of non-ministerial commissioners organised on sound lines. Although the General Assembly returned to the primitive practice of the universal church and to the requirements which canon law had earlier laid down for ecclesiastical assemblies, it was, of course, not the influence of canon law which gave such men a new status. The source of the reformation and return to primitive Christian practice was found in the recovery of a Biblical theology. The doctrine of the priesthood of all

believers gave such personnell a new place and a spiritual function in the church and within society in general and this resulted in this important reformation in the government of the Church. The religious upsurge of lay interest in the Church was the result of the influence of Lutheran tracts which had been circulating in Scotland since before 1525<sup>1</sup> and which constantly re-iterated the doctrine of the priesthood of all believers which Luther had formulated<sup>2</sup> in a way in which Calvin never did.<sup>3</sup> A recent study has shown that the participation of the Christian in the Royal Priesthood of Christ was the main emphasis in the theology of John Calvin in this connection.<sup>4</sup> D. Henderson commenting on the same subject says that this 'particular doctrine was possibly not so prominent among Calvinists as with Luther and the sects, because of the consequent stress upon the authority and respons-

. A.P.S. vol. ii. p. 295.

. C. Eastwood, The Priesthood of all Believers, London, 1960. pp. 1 et seq.

. But cf. ibid. pp. 66 et seq.

. R.S. Wallace, Calvin's Doctrine of the Christian Life. Edinburgh. 1959.

The Second Helvetic Confession states, 'Nuncupant sane apostoli Christi omnes in Christum credentes sacerdotes, sed non ratione ministerii, sed quod per Christum omnes fideles facti reges et sacerdotes, offerre possumus spirituales Deo hosties'. (The apostles of Christ indeed call all believers in Christ priests ... because through Christ all who are faithful, having been made kings and priests, are able to offer spiritual sacrifices to God.) Collectio Confessionum in Ecclesiis Reformatis Publicatorum (ed. H.A. Niemeyer) Leipzig. 1840. p. 508.

ability of pastors, and because of the well-defined position granted to the  
 city by associating them officially with the government of the Church's  
 affairs, both temporal and spiritual, through the representative  
 eldership.<sup>1</sup> In the national council of the church, however, it was  
 the rediscovered theological position rather than the new office of  
 the eldership which gave the necessary impetus to the bringing about  
 of this change.<sup>2</sup> This is obvious from the fact that the non-ministerial  
 members of the Assembly were, initially, elected only by the burghs,  
 the shires and the universities and that there was no necessity laid  
 on the electors to restrict the election as Commissioners to those  
 who were elders.<sup>3</sup> This practice was continued when presbyteries, from  
 1597, commissioned persons other than ministers to the Assembly in  
 accordance with the Assembly Act of that year.<sup>4</sup> It was as commissioners  
 from the shires that such commissioners were sent and not as elders nor as

G.D. Henderson, Church and Ministry, London, 1951. p. 54.

For an excellent summary of the reformers' doctrine and subsequent  
 teaching cf. G.D.Henderson, 'The Priesthood of all Believers' in the  
Scottish Journal of Theology. Edinburgh, 1954. vol. vii. pp. 1-15.

This article has, unfortunately, no footnotes.

G.D. Henderson, The Scottish Ruling Elder, London, 1935. p. 160.

B.U.K. p. 947.



representing presbyteries.

This doctrine exerted a wide influence outside, as well as inside the church. 'Since all were priests, great power was allowed to Christian political and civil authorities, for example in the matter of calling Church Councils: and since there was now no separate Canon law, the laity had naturally responsibility for educational and social problems and matters of discipline to an entirely new extent.'

This evangelical doctrine also changed men's attitude to the duty of attending legislative assemblies.

To the medieval man it was a vexatious duty imposed upon him by the feudal system to be present at a parliament. It was impossible for them to think of rights and privileges in representing others or of aspirations to share in the guiding of certain affairs for the good of all. A.F. Pollard's remarks on the members of the medieval English parliaments sum up the position. They 'attended not as delegates with operative mandates to do what their constituents told them, but as the unfortunate and unwilling persons selected by their fellows to carry out

G.D. Henderson, 'The Priesthood of all Believers' in op.cit. p. 6.

he requirements of the crown.'<sup>1</sup> The same attitude of mind prevailed among the clergy regarding their duty to attend convocations and parliaments.<sup>2</sup>

There was a clean break with such traditions at the dawn of the reformation in Scotland. Men, who had never before exerted their right to attend parliament, came in large numbers. They came because they were aware of their Christian vocation to bring about changes which they believed were right and because, in view of the political situation, they were able to make such changes through parliamentary legislation. A revolution in thought and conviction brought a revolution into action. Protestantism was not a reform; it was a revolution. It was a shifting of the seat of authority.'<sup>3</sup>

It was the lesser barons and burghers who exerted pressure upon the whole life of the country as never before. Their considerable

London  
1. A.F. Pollard, The Evolution of Parliament (2nd ed.)/1926. p. 139.

2. Weske, Convocation. pp. 80-117.

London  
3. Lord Eustace Percy, John Knox/1937. p. 105.

conomic power and influential social position,<sup>1</sup> their awakened spiritual aspirations and their sense of responsibility to God to see his church reformed, made them a forceful and consolidated body. The same type of man who had given money in the past for the endowment of altars and masses and who had been accustomed to supervise chaplains very strictly<sup>2</sup> was now prepared to give himself to the task of restoring the Church to the apostolic and biblical faith. The large number of those professing the reformed faith was due, in part, to the late date at which the reformation took place in Scotland and to the many ordinary men and women who had been converted by the reading of the Bible and foreign theological literature during the preceding twenty five years. It was from the

- . Cf. 'The Rise of the Burghers' in John Warrack, Domestic Life in Scotland. London. 1920. pp. 63-97. 'The bishops during the reign of James V were usually nominated by the King from the sons of the lesser barons'. W.L. Mathieson, Politics and Religion, Glasgow, 1902. vol. 1. p. 30.
- . In burghs, chaplains were inducted by the town council when it was the patron. (Extracts. Burgh Rec. Edinburgh. vol. i. pp. 222, 224 and vol. ii. pp. 1-2, 58, 60, 68-70). Chaplains had to obtain leave of absence from the town council and had to supply a substitute if they wished to go to study abroad or leave their chaplainry for any other reason. (Ibid. vol. ii. p. 176). Absence without good reason was punished by the provost and council. (Aberdeen Extracts from the Council Register of the Burgh of Aberdeen, 1398-1570 (ed J. Stuart) Aberdeen, 1844. p.20)



There is an interesting reference in the burgh records to the control exerted over the provost and clergy of the collegiate church of St Giles, Edinburgh. (Ex. from the Burgh Records of Edinburgh. vol. i. pp. 130-1). The town council of Peebles considered the qualifications of those who were appointed to the church and those chaplainries which were under the patronage of the town. Appointments were made by a system of popular election. (Charters and Documents relating to the Burgh of Peebles with extracts from the Records of the Burgh. 1165-1710 (ed. W. Chambers) Burgh Records Society. Edinburgh. 1872. p. 126.) The duties of the chaplain of our lady chapel as to the foundation of the altar of St Peter and St Paul in the parish church of Peebles are laid down in an indenture of January, 1520 between the 'Baillies and Community' and the chaplain. (Ibid. pp. 50-1) A good summary of the way in which the town council of Linlithgow ordered and directed the life and work of the chaplains of St Michael's is found in J. Ferguson, Ecclesia Antiqua. Edinburgh. 1905. pp. 36-46. A copy of a document which was signed by a priest on his induction by the town council is printed in G. Waldie, A history of the town and Palace of Linlithgow. Linlithgow. 1858. pp. 55-56. It would 'appear that the chaplains were movable at the pleasure of the magistrates' (J. Paterson, Obit Book of the Church of St John the Baptist, Ayr. Edinburgh. 1848. p. x. and see the extract of the minute of the council quoted there) This was all in accordance with a practice common throughout Europe. 'At York, for instance, the mayor and burghesses had the appointment of nearly all the chantry-priests: in Germany this was even more general.' (G.G.Coulton, Medieval Panorama. Cambridge. 1938. p. 658.)

urgher class and the small landowners that the Church received much support. Such men were the mainstay of the non-ministerial members of the early General Assemblies.

It must, of course, never be forgotten that a very large proportion of the ordinary men and women supported the reformation movement long before 1560. John ab Ulmis writing to Rodolph Gaultier on 29th May, 1551, after a visit to the Scottish border wrote, 'As to the commonality (in Scotland), it is the general opinion that the greater numbers of them are rightly persuaded as to the true religion than here among us in England.'<sup>1</sup> 'Great innovations never come from above; they invariably come from below ... (from) the much derided silent folk of the land - those who are less infected with academic prejudices than great celebrities are wont to be. All those people looked at from above, present mostly a dreary or laughable comedy; and yet they are as impressively simple as those Galilaeans who were once called blessed'.<sup>2</sup>

- . Original Letters relative to the English Reformation. (trans. and ed. by H. Robinson) Parker Soc. Cambridge. 1846. p. 434.
- . C.G. Jung, Modern Man in Search of a Soul. (Eng. trans.) London. 1933. pp. 233-4. quoted by J. Toynbee in A Study of History. London. 1939. vol. v. pp. 567-8.

One further point must be considered before proceeding to a more detailed examination of the Commissioners of the shires and burghs.

The Commissioners to the General Assembly came with full power to participate in all the proceedings of the Court.<sup>1</sup> They were not elected as delegates with mandates to act along certain definite lines nor were they answerable to the group which had commissioned them for what they did or how they voted in the Assembly.<sup>2</sup> This was, of course, the medieval concept of 'plena potestas', and such an idea was not new in Scotland. The election of representatives with 'full power' went, e.g. in Edinburgh, on 24th December, 1563 the burgh's commissioners were elected 'to compeir for thame to ressonne and propone in thair caussis and sik vtheris as sall occur, and geifis thame full commissioun sa to do.' (Extracts Burgh Recs. Edinburgh. vol. iii. p. 175). Later in July, 1580, they are commissioned 'with power to voit, conclude and determinat.' (Ibid. vol. iv. p. 167). They were, of course, answerable to their electors as to whether or not they diligently attended the Assembly although this was not enacted until 1783. Act x. Assembly 1783.



ack to early parliamentary procedure.' The Act of Parliament of 1st March, 1428, although having little effect on ensuring the attendance of the commissioners of the shires in Parliament, makes the position quite clear. 'The King with consent of the haill Councell, generallie as statute and ordained, that the small Barrones and free tennentes shuld not cum to Parliaments nor general Councels, swa that of ilk shirefdom thair be send, chosen at the head Court of the Schirefdome, two or mair wise men after the largenes of the Schirefdome, out of the Schirefdomes of Clakmannan and Kinross, of the quhilkis one be send of ilk ane of them, quilk sall be called Commissares of the Schires,...

The earliest known commission to a Scottish parliament containing the phrase 'plena potestas' is a commission issued by the burgh of Aberdeen to its two commissioners to the parliament which began on 1st October, 1487. (Aberdeen MS Burgh Register of Sasines. p. 108. printed in S.H.R. vol. xxxiv. p. 94. See, however, the use of the phrase 'plenam et liberam potestatem' in 'Obligatio villarum et Burgensium regni Scocie pro redempcione Regis David. A.D. 1357' in Ancient Laws and Customs of the Burghs of Scotland. (ed. C. Innes) Scottish Burgh Record Society. Edinburgh. 1868. p. 196. The first mention of shire and burgh representatives going to an English parliament with full powers was in 1282. Parliamentary Writs. London, 1827. vol. i. p. 16; W. Stubbs, Select Charters. p. 465.

.... the quhilkis Commissares .... sall have ful and haill power of all the laif of the Schireffedome, under the witnessing of the Schireffis seale, with the seales of diverse Barrones of the Schire, to heare, treate, and finallie to determine all causes to be proponed in Councell or Parliament: ...<sup>1</sup> In this respect representation in the Assembly was adopted from parliament. The same principle was apparent, not only in the Scottish Parliament, but also in the character and structure of constitutions<sup>2</sup> and assemblies<sup>3</sup> of many other medieval nations and was ultimately derived from the canonists.

At the conclusion of this section, it should be added that, over and above all the influences in the background connected with the commissioning of the various constituent sections of the General Assembly, another important principle was involved in the

1. A.P.S. vol. ii. p. 15.

2. cf. e.g. J.G. Edwards, 'The Plena Potestas of English Parliamentary Representatives' in Oxford Essays in Medieval History Presented to H.E. Salter. Oxford, 1934. pp. 141-154.

3. Gaines Post. 'Plena Potestas and Consent in medieval assemblies.' in Traditio. vol. i. pp. 355-408.

gathering of all the parts together within the supreme court of the church. The reformers were, above all, eager to ensure, through the participation of all such personnel, that the true face of the Church would be apparent in the Assembly. No division was made between one section and another. All were necessary to the whole which was to be a reflection of the nation in toto. No stress was laid on whether or not the commissioners were 'ecclesiastical persons'.

It was only with the arrival of Andrew Melville and the two kingdom theory that the Assembly began to make its membership completely quasi-sacerdotal. The Second Book of Discipline makes this quite clear. 'The national assembly, which is general to us, is a lawful convention of the whole kirks of the realm, or nation, where it is used and gathered, for the common affairs of the kirk, and may be called the general eldership of the whole kirks in the realm. None are subjects to repair to this assembly to vote, but ecclesiastical persons, to such a number as shall be thought good by the same assembly, not excluding other persons, that will



epair to the said assembly to propone, hear, and reason'.<sup>1</sup> 'This  
 ssembly should take heed that the spiritual jurisdiction and civil  
 e not confounded, to the hurt of the kirk'.<sup>2</sup>

Stemming from this it is observable that the place of the  
 ommissioners from the universities, where the patronage of the  
 hairs was, usually, in the hands of the crown, and those from  
 he burghs and the shires, which was adversely affected by the two  
 ingdom theory in politics, grew less and less in importance within  
 he Assembly until 1929 when such commissioners disappeared from  
 he supreme court of the church in Scotland.

- . The Second Book of Discipline. Chapter VII. Of the Elderships,  
 Assemblies and Discipline.
- . Ibid.

## Commissioners of Burghs.

The Assembly and Scottish parliamentary procedure were exactly the same concerning this representative group in the early Assemblies. The method of electing and commissioning were identical in the town councils and the same number of commissioners were usually sent to both. The burghs who were entitled to send commissioners to parliament, i.e. the Royal burghs and the episcopal burghs of St Andrews, Brechin and Glasgow were also those who sent them to the Assembly.' It should be noted that the commissioners from burghs to parliament were commissioned for a particular meeting of the parliament while the shire commissioners were appointed annually. 'The difference in practice is easily explicable. A Town Council was in constant or frequent session, and could appoint commissioners immediately upon receipt of a summons, while a body of freeholders, scattered over a county, naturally desired to avoid unnecessary meetings.'<sup>2</sup>

No new procedure was involved and nothing was changed by the

- . The third estate, therefore, consisted of the burghs whose commissioners attended parliament, i.e. the Royal burghs. Rait, Scottish Parliament, p. 249.
- . Ibid. p. 269.

Assembly, it just took over the system as it was. Although a large number of burghs had this privilege, about sixty in all,<sup>1</sup> they did not all take advantage of it.<sup>2</sup> This may have been due to financial considerations as the burghs paid their commissioners' expenses or to a lack of interest in ecclesiastical affairs.<sup>3</sup> Many burghs were intensely concerned about the Church. The commissioners from certain burghs were not the same from year to year<sup>4</sup> and this indicates that many of the town councillors were interested and as a result the elections were not conducted in a prefatory manner. It was possibly also so arranged that as many of the council as possible, could share the burden of attending.

The number of commissioners from each burgh to the Assembly was not laid down at the beginning. This was continuing the current

1. Ibid. pp. 255-56.

2. Ibid. p. 250.

3. 'The burgesses, like the lower clergy and the smaller barons did not wish to bear the trouble, and expense of attendance in the national assemblies'. Ibid. p. 246. There is a great difficulty in finding entries in burgh accounts showing payment of Assembly commissioners' expenses. There is one entry in the minutes of Edinburgh Town Council authorising payment. Extracts Burgh Rec. Edinburgh. vol. iii. p. 211.

4. Extracts Burgh Rec. Edinburgh, passim.



practice as there had been nothing definite enacted about the numerical composition of the convention of Royal Burghs or the number of burgh commissioners in parliament.<sup>1</sup>

The first reference to the number of commissioners was in an Act of Parliament of 1578 which stated that no burgh, with the exception of Edinburgh which could send two, could send more than one to the meetings of the Convention of Royal Burghs.<sup>2</sup>

The General Assembly probably followed this practice long before it enacted, in March, 1597, that because 'ther hes bein no ordour sett downe hitherto anent the number of Commissioners,' that there should be 'ane out of every burgh except Edinburgh, quhilk sall have power to direct two Commissioners to the General Assemblie'.<sup>3</sup>

Such limitation on Commissioners to Parliament does not appear to have come into practice until well into the seventeenth century.<sup>4</sup> It appears to have come about by action taken by the Convention of

1. Cf. The vague reference in the writ of James III summoning burgh representatives to parliament. A.P.S. vol. i. p. 104.

2. Ibid. vol. iii. p. 102.

3. B.U.K. p. 947.

4. Rait, op.cit. p. 272-73.

Royal Burghs rather than Parliament itself.<sup>1</sup>

From the minutes which record the appointment of commissioners little is revealed of the influences which were being exerted in or upon the town councils. The Church had no direct control over the election of commissioners and its influence must have varied from time to time. The strength of clerical influence upon such elections would depend to a large extent on the burgh minister and the understanding which existed between him and the town council. Burgh ministers were occasionally sent as commissioners for the burghs to the General Assembly.<sup>2</sup> This was of course irregular as only members of the town councils were actually eligible for such appointments.

It is only when a scrutiny of local government officials is made that other influences are seen to be at work. To counterbalance any influence which the Church may have been able to exert there was, for example, the existence of pensions which were paid by the state out of the Thirds of Benefices as well as the usual Crown and other appointments. Two examples will suffice. Sir Patrick Learmonth of Dairsie, who was provost of

1. Ibid. p. 272 n.

2. Extracts Burgh Rec. Edinburgh. vol. iii. p. 161 and vol. iv. p. 167.

St Andrews from before 1550<sup>1</sup> and remained provost for more than thirtyfive years,<sup>2</sup> was appointed great customer in St Andrews on 16th December, 1556.<sup>3</sup> On 8th February, 1562 he was knighted by the Queen.<sup>4</sup> Two month later, he was appointed by John Hamilton, archbishop of St Andrews, to the office of steward, baillie and justiciary of the regality of St Andrews.<sup>5</sup> A royal confirmation of this was granted on 11th March, 1569.<sup>6</sup> He received, out of the Thirds of Benefices, the mails of Dairsie and the Thirds of the provostry of Kirkhill from 1562<sup>7</sup> and was paid a sum of money out of the Thirds of the Bishopric of St Andrews from 1571.<sup>8</sup> The provost of Dundee

1. The Black Book of St Andrews quoted by D. Hay Fleming in the Register of Ministers, Elders and Deacons of the Christian Congregation of St Andrews, Edinburgh. 1889, vol. i. p. 8.n.
2. Register of St Andrews Kirk Session. p. 531.
3. G. Martine, Reliquiae Divi Andreae. St Andrews, 1797. p. 85.
4. A Diurnal of Remarkable Occurrents within the Country of Scotland since the Death of King James the Fourth till the year 1575. (ed. by T. Thomson) Bannatyne Club and Maitland Club. Edinburgh, 1833. p. 71.
5. G. Martine, op.cit. p. 78.
6. Registrum Magni Sigilli Regum Scotorum 1546-80, (ed. J.M.Thomson) Edinburgh, 1886. (later referred to as R.M.S.) vol. iv. No. 1836.
7. Thirds of Benefices. p. 166.
8. R.P.C. vol. ii. p. 112.



from 1555 until 1588,<sup>1</sup> James Haliburton, was for some years commendator of the priory of Pittenweem<sup>2</sup> until it was given to the King's favourite, William Stewart, 'Colonell or Captane of his Hienes gard'.<sup>3</sup> He was a Privy Councillor<sup>4</sup> and received a pension out of the Third of the Abbey of Scone.<sup>5</sup> The influences upon such personnell were varied and many.

The Assembly was aware of such problems and on 6th July, 1568 enacted that 'commissioners for burghs sall be appointit be the counsall and kirk of their awin townes'.<sup>6</sup> Thus in some measure, the Church brought pressure to bear on the elections. Whether this Act was completely enforced immediately is not revealed by the records but, if the Assembly wished to ensure that the Act was complied with, it could do so as the Act of Assembly also stated that 'none were to be admitted to the Assembly without sufficient commission in wryte'.<sup>7</sup> Such a commission, no doubt, would require to make mention of the

1. Knox, Works, vol. vi, p. 679.
2. Obtained gift under the Great Seal on 4th December, 1579. R.M.S. 1546-80. No. 2930.
3. Granted on 26th October, 1583. 'Register of Presentation to Benefices.' quoted by D. Laing, Knox's Works. vol. vi. p. 679.
4. R.P.C. vol. ii. p. 98 and vol. iii. pp. 519-20.
5. Ibid. vol. ii. p. 112.
6. B.U.K. p. 124.
7. Ibid.

'Kirk of their awin townes' as well as 'the counsell', although definite instructions about this were not laid down by Acts of Assembly until the eighteenth century.<sup>1</sup>

The other difficulty which might have caused the Assembly to enact this was a matter which had been and continued to be the cause of trouble, namely the appointment to Parliament of Commissioners of Burghs who were not resident in the Burgh which commissioned them in contravention of Acts of Parliament of 1487 and 1535.<sup>2</sup> This was a problem, which remained unresolved throughout the sixteenth century<sup>3</sup> and dragged on until 1690 when the residential qualification was departed from.<sup>4</sup> The Assembly on the other hand never departed from the principle that the Commissioner from a Burgh 'must be designated as either a resider in the burgh, or a heritor in the burgh, or a heritor in the bounds of the Presbytery, or as presently residing and officiating, or as

1. Acts of G.A. 1720. iv, 1724. iv, and 1788. ix.

2. A.P.S. vol. ii. pp. 178 and 349.

3. Records of the Convention of the Royal Burghs of Scotland (ed. J.D. Marwick) Edinburgh, 1870, vol. i. pp. 25, 209 and vol. ii. p. 31 and A.P.S. vol. iii. p. 443.

4. Rait, op.cit. p. 298.

having formerly resided and officiated, in the burgh or Presbytery.<sup>1</sup>

No allusion is made in the minutes of the meetings of the Town Council of Edinburgh of recommendations of the Church regarding who might be sent as Commissioners to the Assembly until 1st July, 1580. On that date, two burgh representatives were named and constituted with the advice of the minister, elders and deacons of the Kirk of Edinburgh. One of the two commissioners was James Lawson, minister of the Kirk of Edinburgh.<sup>2</sup> This was the first ministerial commissioner of the burgh since John Knox in 1563.<sup>3</sup> Both such appointments as has already been said were probably irregular.<sup>4</sup>

One further influence which was never very apparent in town councils was removed on 3rd September, 1574 when letter were issued by the Privy Council to burghs permitting only those who professed the Reformed faith to sit in town councils.<sup>5</sup>

1. W. Mair, A Digest of Laws and Decisions Ecclesiastical and Civil.

Edinburgh, 1923. p. 176.

2. Extracts Burgh Rec. Edinburgh, vol. iv. p. 167.

3. Ibid. vol. iii, p. 161.

4. See p. 200. *supra*.

5. R.P.C. vol. ii. p. 401.



Commissioners were often given little time to prepare for the Assembly. On one occasion, the Commissioners for the Burgh of Edinburgh were elected on the day before the Assembly commenced.<sup>1</sup>

The expenses of the Commissioners were paid by the burgh as in the case of Commissioners to the Convention of Royal Burghs or Parliament.<sup>2</sup>

1. Extracts Burgh Rec. Edinburgh. vol. iii. p. 211.
2. 5th July, 1580. 'Ordanis Andro Steuinson, thesaurer, to deliuer to maister James Lawsoun, minister, and Jhone Jhonestoun, collector, commissioneris of the guid toun and kirk at the Generall Assembly in Dundie, the sowm of fourty Li. vpoun compt and rekning to be thair expenssis, and siclyke to deliver to Henry Chairteris and James Nicoll vther fourty Li, to be thair expenssis in Aberdene as Commissioneris to the Conventioun of Burrowes vpon compt and rekning.' Ibid. vol. iv. p. 168.

### Commissioners of Shires.

The extremely defective notices of sederunts, the vagueness of the naming of groups of commissioners and the very unsatisfactory implementation of the Act of Parliament governing the commissioning and appearance of the Commissioners of Shires in the Three Estates, all contribute to making it almost impossible, at times, to give an accurate account of the place of the Commissioners of Shires in the Gneral Assembly.

The group which appeared at the first Assembly was in no way equivalent to what had been the Barons or what was later to become the Commissioners of Shires. They were but a group of barons and lairds who had connections with the reformation movement and represented reformed congregations rather than areas of Scotland. Such persons were assisting in a revolution rather than laying the foundations for democratic representation of the Shires within an ecclesiastical national assembly. From 1560 onwards, commissioners from different areas variously referred to as 'Commissioners' of certain

named districts,<sup>1</sup> 'Commissioners of Shires',<sup>2</sup> 'Commissioners of Provinces',<sup>3</sup> 'Barons'<sup>4</sup> and 'gentlemen',<sup>5</sup> attended the Assembly. They were those lesser barons who had appeared in the 1560 Reformation Parliament but, although permitted to take their seats on that occasion, did not have their rights ratified.<sup>6</sup> They did not trouble about the question as they found fulfilment in their participation in the General Assembly which was continuing the work of reformation which had prompted their attendance at the historic 1560 Parliament. In secular affairs there may have been more than one interest represented. It is difficult to separate one group from an other, if in fact there was more than one. On many occasions only a single group is mentioned<sup>7</sup> and on another more than a single nomenclature is used in the sederant to describe such a collection of non-ministerial members of the Assembly.<sup>8</sup> This heterogenous

1. B.U.K. pp. 3, 13.

2. Ibid. p. 38.

3. Ibid. pp. 52, 57, 65, 82.

4. Ibid. pp. 38, 93, 100, 112, 123, 141.

5. Ibid. p. 46.

6. Rait, Parliaments of Scotland. p. 202.

7. B.U.K. passim.

8. Ibid. passim.



collection of people was composed of barons and lairds who were, in the main, keen churchmen eager for the welfare of the Church and anxious to play their part in the administration of its affairs. There is little doubt that they looked upon their attendance at the Assembly as a Christian privilege. This is the only reason which can account for their persistence in attending the General Assembly. This, as has been shown, was a completely new conception to the medieval mind.<sup>1</sup> The inherited dislike of participation in civil government continued to be present in Scotland as can be seen in the breakdown of the County Franchise Act of 1585.<sup>2</sup>

It is certain that the majority of the barons and lairds were not elected from among themselves within a certain area nor were they elected by a group of churches as there was no machinery for such elections and none were commissioned by synodical courts. They attended, as they had done in the Parliament of 1560, in their own right. Some may have been elected by their local churches as Commissioners to the General Assembly but, if it did happen, this would appear to have been

1. See pp. 188-191. *supra*.

2. See pp. 215-6. *infra*.

rare occurrences. Probably when 'Commissioners of Kirks'<sup>1</sup> or 'of particular kirks'<sup>2</sup> is used these refer, most likely, to burgh representatives. This hypothesis is re-enforced by the different records of the sederunt of 25th June, 1565 where Petrie has, when referring to Commissioners, 'and burghs'<sup>3</sup> in place of 'and kirks' which appears in the Book of the Universal Kirk.<sup>4</sup>

The situation remained fluid until the place within the Assembly of the barons and lairds, together with the lords, came to the fore in 1567. On 26th June, a summons was sent out by the Assembly to all earls, lords, barons and commendators of abbeys for the Assembly of 20th July of the same year.<sup>5</sup> There is no mention of lairds being summoned to this meeting, and according to the sederunt none attended<sup>6</sup> but many of them were present<sup>7</sup> with the lords, earls and barons who

1. B.U.K. pp. 3, 13, 46, 57, 65, 82, 112, 132, 134, 141, 157.

2. Ibid. pp. 52 and 77.

3. Petrie, History. p. 342.

4. B.U.K. p. 57.

5. Ibid. pp. 94-5.

6. Ibid. p. 100.

7. Ibid. p. 110.

attended in large numbers.<sup>1</sup> This Assembly took place against the background on Mary's marriage with Bothwell on 15th May, her imprisonment in Lochleven Castle on 17th of the following month and her conveying of the crown to her son and the appointment of Moray as Regent on 24th July, 1567.

On this occasion, as in 1560, the Kirk had an influence on the composition of the Parliament. Changes are noticable in the first Parliament of James VI which met at Edinburgh on 15th December, 1567.<sup>2</sup> A small nucleus of the Assembly calling themselves 'The Convention of the Brethren' met in Edinburgh on the day of the opening of Parliament which was ten days before the convening of the Assembly.<sup>3</sup> At the Parliament the lords attended 'with certane vtheris small barronis and commissionaris of burrows'.<sup>4</sup> As in the Assembly there is no mention made of the lairds attending, but in this instance the

1. Petrie records that four earls, seven lords, many barons and commissioners of burghs attended. Petrie, History, p. 355.

2. A.P.S. vol. iii. p.3.

3. B.U.K. p. 111.

4. A Duirnal of Remarkable Occurents. p. 126.



lairds were possibly not present. This is suggested by legislation affecting the representation of the shires agreed to at this Parliament.<sup>1</sup> It would seem that all the barons who wished to come attended in their own right and that no election took place within the shires. They attended as barons and not as commissioners of the shires.

A statute was passed at this Parliament. It recognised that 'the baronis of this realme aucht to haif voit in parliament as ane part of the nobilitie and for sauftie of nowmer at Ilk parliament'. and enacted that within the tolbooth of the main burgh of the shire the barons should chose 'ane or tua of the maist qualifiit and wyse baronis within the schire to be commissionaris for the haill schire.'<sup>2</sup>

This was a new conception of who were eligible to be represented in Parliament as the Act of 1428 did not mention barons alone but included 'other freeholders'. This statute had little effect and barons did not appear again in the Three Estates until after the Parliament

1. A.P.S. vol. iii. p. 40.

2. Ibid.

of 1587 when the matter was examined afresh.'

The General Assembly which met on 1st July, 1568 established the election of the Commissioners of Shires to the Assembly within the organisation of the Church. It was enacted that, in future, 'the Ministers and Commissioners of Shyres sall be chosen at the synodall conventioun of the dioces, be consent of the rest of the ministers and gentill men that sall convene at the said synodall conventioun'.<sup>2</sup> This meant that the synod met along with those who were entitled to take part in the election of the commissioners of the shire to Parliament and, together, they elected the gentlemen to be commissioned to the Assembly.

This incorporation of the commissioners of shires within the Three Estates and the General Assembly may have been motivated on both

1. 'diverse vtheris gentilmen and barronis' are mentioned in A Diurnal of Remarkable Occurrents. p. 135 as having attended the Parliament of 1568 but this is not recorded in the parliamentary records.

For cases where barons appeared in Parliament or Convention during the period 1567 to 1587 see the discussion of the matter in Rait,

Parliaments of Scotland. pp. 203-06.

2. B.U.K. p. 124. These elections would probably take place at Michealmas, cf. Rait, op. cit. pp. 206, 209 and 219-33.

sides by reason other than the obvious one of making these councils more representative. The Parliament restricted the number of barons so that they would not have too great an influence on the proceedings, if they appeared, but, at the same time, because of their influential place within society and in the new situation which had arisen because of their position in the reformed Church and in the General Assembly, they could not be ignored especially if there were any thoughts of eventually absorbing the Assembly into the Three Estates and following the English and continental pattern of the godly prince or magistrate legislating for the nation in ecclesiastical as well as temporal affairs. It is possible that, even at this date, there were such thoughts in the minds of some of the politicians who were guiding the state to the Parliament of 1572 at which the first reformed archbishop of St Andrews appeared along with the bishops of Caithness and Orkney.<sup>1</sup>

This Act of Assembly of 1568 was quite definitely a result of the Act of Parliament of the previous year. Although formulating another system of election within its own courts, the Church felt, being influenced by contemporary state legislation,

1. A.P.S. vol. iii. p. 77.



that the time had come for an orderly way of ensuring that the barons had a constitutional place and in the same number within the Assembly as they had in Parliament. It may also have done this because it realised that the Act of 1567 would not work out in practice and was determined to have non-ministerial representation within the Assembly from the rural areas.<sup>1</sup> There was probably also fears that these men vital to the consolidation of the Church in Scotland would be absorbed into the Three Estates and wooed from their participation in the Assembly.

An 'Article' which was presented to the King and the Three Estates in 1585 requesting a review of the whole matter was remitted to the King to consider and report to the next Parliament.<sup>2</sup> As a result the King summoned, on 29th July, 1587, by Royal precept, the barons, as well as the earls and lords, to Parliament.<sup>3</sup> This Parliament passed the County Franchise Act, 1587 into law.<sup>4</sup> Two important points in this legislation must be noted. The first was that the Commissioners for Shires had equality of representation with the Commissioners of

1. See the interesting allusion to this in Petrie, History, p. 359.

2. A.P.S. vol. iiii. p. 422.

3. Rait, op. cit. p. 206.

4. A.P.S. vol. iiii. p. 509.

Burgh on the Committee of the Articles. The other, which was a complete change in electoral procedure, was that those participating in the election of the Commissioners of the Shires in the Head Court was limited to those whose land had an annual value of forty shillings or over.<sup>1</sup>

The commissioners were to be elected annually by the freeholders of each shire at the first head court held after Michaelmas every year or at other convenient times. The names of the Commissioners elected were to be notified annually to the Director of the Chancery by the commissioners for the preceeding year and the precepts of the Chancery were to be sent to the Commissioners of the Shires in the same way as the other Estates.

This system did not work. Very few elections took place and the King had to adopt a method of selection.<sup>2</sup> This practice continued until the end of the century at least. As would be expected these

1. This is not explicit in the Act but was interpreted in that way due to the Article presented in 1585. cf. Rait, op. cit. pp. 207-8.

A.P.S. vol. ix. App. 144-45 refers to seventeenth century discussion on this point.

2. Rait, op. cit. pp. 209-10.

commissioners tended to be King's men in Parliament.

The representation in the Assembly also suffered during this time. For some years nothing was done although the Church saw the defects of the system and knew some of the causes on account of their intimate knowledge of local situations. After the setting up of presbyteries, the time seemed opportune to do something about this matter and, in the complete review of representation to the General Assembly which took place in March, 1598, it is not surprising to find that the representation of the barons is fitted into the presbyterial system. It was enacted that 'ane be direct from every Presbytrie in name of Barrones.'<sup>1</sup> This again brought the representation of shires within the constitution of the Church and it was done in the hope that it would strengthen the barons in their participation in the Assembly and break them away from the unsatisfactory attitude which the barons had to being commissioned to the Parliament.

It should be observed that the presbyteries directed a baron to attend the Assembly but as there were as yet no elders within the presbyteries, it seems that the baron, whether an elder or not, would

1. B.U.K. p. 947



be chosen by the presbytery and the selected representative then informed.

The commissioning of elders to the General Assembly had not so far commenced and when it came it did not spring from the commissioners of shires.

### Commissioners of Universities.

Prior to the reformation, the universities, being independent corporations, were not directly connected with the government of the church or state. Against such a background it took some time before the possibility of the universities' participation in the General Assembly was clarified. When, eventually, commissioners were sent it was the outcome of an evolving practice rather than the conforming to some preconceived system of representation or a pre-reformation procedure.

The universities' right to send commissioners was based upon the general practice of all interested groups being represented in the Assembly. No permission appears to have been considered necessary before commissioners were sent. It is more likely that the universities were encouraged to send commissioners in order that through them, as well as by means of visitations, the universities would to some extent be kept under the control of the reformed church. The reformers could not permit the universities of Scotland to lead the church astray as the medieval

chools had done in the past. The 'bondage of the Universities' as a great danger to the reformers.

Owing to defective and vague notices of the sederunt in the assemblies' minutes, it is not possible to say how many commissioners attended on behalf of the universities and if there were always representatives present from them all. There were probably commissioners from the universities present from an early date but it is only from February, 1569, due to a better state of the minutes, that such commissioners are noted as being present.<sup>1</sup> They attended with great regularity.<sup>2</sup> After May, 1585, due to the entries of the sederunt being so indefinite, it is not easy to know which commissioners were present, but, from those who took part in the business of these later Assemblies, it is obvious that the universities continued to send commissioners throughout the period.

The vagueness of the minutes of the Assemblies is not the only problem encountered here. The election and commissioning of personnel to attend the Assembly was on occasions most haphazard.

. B.U.K. p. 134.

. Ibid. pp. 184, 198, 234, 237, 255, 286, 299, 364, 383, 392, 403, 427, 449 and 645.



This is illustrated in the case of William Skene who attended the Assembly of 1574 as a commissioner from the university of St Andrews. John Davidson, Regent in St Leonard's College, claimed that Skene 'was not chosin by the universitie conveened, as they used to be for such purposes'.<sup>1</sup> This was admitted by other members of the university who were present.<sup>2</sup> No further action appears to have been taken in the matter. Skene may have felt entitled to attend ex officio as he was Conservator of the Privileges of the University as well as being dean of the faculty of Arts.<sup>3</sup> Although there is no other case on record, it may not have been an exception, but even if it was the only incident during the century it does reflect the undetermined state of affairs. This was not Skene's last appearance in the Assembly.<sup>4</sup>

The University of Edinburgh was in a different position from the others. There seems to have been uncertainty about its right to choose a Commissioner because it was the Town's College. The matter was under

1. Calderwood, History, vol. iii. p. 310.

2. Ibid. vol. iii. p. 311.

3. McCrie, Melville, p. 455.

4. He attended in 1576. Calderwood, op. cit. vol. iii. p. 372.

debate in 1719, and the controversy continued for some time.<sup>1</sup> The dispute between the Town Council of Edinburgh and the University was settled in 1723 when the Assembly found that only the Principal, professors, masters, Chancellor, Rector and Deans of the Faculties had the right of electing a commissioner.<sup>2</sup>

This illustrates the very uncertain legislation by the early Assemblies, if anything was ever enacted, which governed the appointment of commissioners by the universities.

It seems certain, however, that only masters of the appropriate university were ever eligible for election as university commissioners.

1. Acts of Assembly, 1719.1; 1722. 11; 1725.5; 1735.11. and cf.

The Case of the University of Edinburgh with Respect to their Right of chosing a Member to the General Assembly by an Alumnus of the University of Edinburgh and Wellwisher to the Church of Scotland, Edinburgh, 1723 and Wodrow, Correspondence, vol. ii. p. 642 and vol. iii. pp. 47, 48 and 54.

2. Act of Assembly, 1723. vi.

## 'The Doctors.'

The church taught, from a very early date, that a bishop, doctor and preacher was the one and same person and this doctrine was reflected in canon law.<sup>1</sup> The great teachers and preachers of the church clearly stated this also. When the bishop and presbyter ceased to be terms of discription for the same individual, the bishop was looked upon as the preacher and doctor.<sup>2</sup> Thereafter, there were many instances of the privilege being safeguarded by the episcopate.<sup>3</sup>

Augustine was quite emphatic that the office of doctor was that of a preacher of the Word of God, the herald of the gospel of Christ.<sup>4</sup> Gregory the Great stated that pastors and doctors are named as one order

1. Decretum Gratiani c. 6. Dist. XXXVIII and Dist. LXXXVIII.
2. cf. Codex Iuris Can. can. 331. para. 1. 5. which shows the influence which remains in the requirement of an academic title by a possible bishop.
3. cf. e.g. C.J. Hefele, Histoire des Conciles. (Trans. with notes by H. Leclercq) Paris. 1907-38. vol. ii. p. 1112.
4. Sermo 71 in Patrologiae cursus completus. (ed. J.P.Migne) series Latina. Paris. 1844-64. vol. xxxvii. col. 456 et seq.; Epist 149. 2.



of rulers<sup>1</sup> and he made no distinction between ordo praedicatorum and ordo doctorum.<sup>2</sup> In the ninth century, this was still the teaching of the church as shown by such men as Rabanus Maurus,<sup>3</sup> while there are numerous references to show that this was still the position in twelfth century England<sup>4</sup> and on the continent.<sup>5</sup>

With the absorption of the bishops in ecclesiastical and temporal administration, the rise of the preaching orders and the growth of the power of the universities which were springing up, the unity of function of preacher, doctor and ruler was lost sight of completely and each aspect of the ministry of the church gradually grew to be considered as an office in itself within the church.

The government of the church gradually came exclusively into

1. P.L. vol. lxxvi col. 1046.
2. Ibid. lxxvi cols. 882 and 1267, vol. lxxix cols. 42, 148-50, 153, 155-57, 164 and 271.
3. Ibid. vol. cix, cols. 373, 651, 661 and 826, vol. cx, col. 510.
4. Ibid. (Anselm) vol. clviii col. 600.
5. Ibid. (Gottfried, abbot of Andmont) vol. clxxvi col. 612, (Bernard of Clairvaux) vol. clxxxiii. col. 506, (Richard of St Victor) vol. cxevi. cols. 786, 794 and 886.

the hands of the episcopate and the appointment of a bishop was no longer looked upon as necessarily requiring him to be, in practice, anything except a ruler and the doctors and preachers, while on occasions attending ecclesiastical councils, were never part of the courts of the church.

It was, therefore, quite normal practice when, prior to the reformation of the church in Scotland, the theologians, as such, had no place within the councils of the church. Sometime theologians were present, for example, at the Scottish provincial council of 1549,<sup>1</sup> but on these occasions they were there, in all probability, 'as theological assistants and assessors'.<sup>2</sup>

From the first, although many were aware of Calvin's second order within the church which he had named 'doctors', there is no mention made of this group as a section of the General Assembly. The Commissioners of the Universities were generally present but it was never enacted that these need necessarily be theologians and, in fact, very often such commissioners were not. The main reasons for this was that such members of the Assembly were not summoned to deal with academic or theological matters only but were present to assist in all that the Assembly did and also to ensure that,

1. There were ten present who were doctors, bachelors or licentiates in theology, Statuta, vol. ii. pp. 83-4.

2. Dowden, Medieval Church in Scotland. p. 238.

through them, the Assembly could retain some oversight and control over the universities.<sup>1</sup>

Calvin was quite clear in his definition and conception of 'the Doctors' in Projet D'Ordonnances Ecclésiastiques, 1541,<sup>2</sup> in February, 1548, in his comment on Ephesians chap. iv. verse 11, he revealed his own difficulty in separating the Doctors as an order from the other ministries within the church. To him teachers were a distinct class within the church 'who preside both in the education of pastors and in the instruction of the whole church'.<sup>3</sup> This was, of course, following the late medieval tradition and was not the usual exegesis of the passage prior to the twelfth century. In spite of this clear division between ministers and teachers which was the same as that made in his Institutes of the Christian Religion, where he said 'there is this difference, that teachers preside not over discipline, or the administration of the sacraments, or admonitions, or exhortations but the interpretation of Scripture only in order that pure

1. See pp. 218-9. *supra*.

2. Kidd, Documents. p. 594-5.

3. Commentary on the Epistle of Paul to Galatians and Ephesians (trans.

W. Pringle), Calvin Translation Society. Edinburgh, 1854. p. 280.



and sound doctrine may be maintained among believers', some confusion arises when he goes on to say that it 'may sometimes happen, that the same person is both a pastor and a teacher, but the duties performed are absolutely different.'<sup>2</sup> Such ideas no doubt guided the Assembly of December, 1560 when some in St Andrews were noted as being considered fit for 'ministreing and teaching' while others were only thought capable of being 'apt and able ..... to minister.'<sup>3</sup>

Although Calvin maintained that 'without Pastors and Teachers there can be no government of the Church,'<sup>4</sup> the Assembly was never concerned to bring in the 'Doctors' as a class into the courts of the Church. They sat, if they were present at all, as commissioners of the universities who were appointed irrespective of what subject they taught and whether they were ministers or not. The basic problem was probably that as they were not to preside over 'discipline' or 'admonitions' it was impossible to see how they could fit into a series of courts all of which had to discipline

1. Book IV chap. iiii. para. 4.

2. Commentary on Galatians and Ephesians. p. 280.

3. B.U.K. p. 4.

4. Commentary on Galatians and Ephesians. p. 280.

and admonish. This confused aspect of Calvin's ecclesiastical constitutional doctrine would appear to have been almost completely ignored until the appearance of Andrew Melville.

The 'Doctor' was not defined officially within the Church until the appearance of the second Book of Discipline. 'Ane of the tua ordinar and perpetuall functionis that trauell in the Woorde is the office of the Doctour, .... that is, teacher of the Cathechisme, and Rudiments of religion.' 'Vnder the name and office of ane Doctour, we comprehend also the ordour of Scoles, in Colleges and Vniuersiteis, quhilk hes bene frome tyme to tyme cairfullie mantened, alsweill amangis the Jewes and Christianes as amang prophane nationis'.

This conception of the schoolmaster and university professor, of late medieval origin, had been for long current among the continental reformers, and had been absorbed into Scottish thought due to the inclusion of the Confession of Faith of the English-speaking congregation in Geneva of 1556 in the contents of the Book of Common Order which had a short section on Education. 'We are not ignorante that the Scriptures make mention of a fourthe kynde of Ministers left to the Churche of

Christe, .... These Ministers are called Teachers or Doctors, whose office is to instructe and teache, the faithfull in sownde doctrine, providing with all diligenge that the puritie of the Gospel be not corrupt, either through ignorance, or evill opinions ..... Therefore to terme it by a worde more usuall in these our days, we may call it the 'Order of Schooles, wherein the higheste degree, and moste annexed to the ministrie and government of the Church, is the exposition of Godes Worde, which is containd in the Olde and Newe Testamentes.'

The division of duties between the minister and the Doctor were alluded to by the Assembly on 10th August, 1574 in 'Articles' 'to be proponed to my Lord Regents Grace be the commissioners of the Kirk', which states that 'in the ecclesiasticall function ther is two only distinct offices of teaching, the Doctour that interpretes the Scriptures, and the Minister to preach and apply the same'.<sup>2</sup>

The Second Book of Discipline considerably amplified this.

'The Doctour being ane Elder, as said is sould assist the Pastoure

1. This appears in the short section after 'Of Deacons and their Office and Election'.

2. B.U.K. p. 305.



in gouernament of the Kirk, and consurre with the vther Elderis, his bretherene, in all assemblies; be reasoun the interpretatioun of the Worde, (quhilk is onlie Judge in ecclesiasticall materis,) is committed to his charge. Bot to preache vnto the peple, to minister the sacramentis, and to celebrat mariages, pertenis not vnto the Doctour, onles he be vtherwise ordourlie callit; howbeit, the Pastoure may teache in the scoles, as he quha hes also the gift of knowlege, oftentymes meit thairfoir, as the exemplis of Polycarpus and vther do testefie.<sup>1</sup>

The Second Book of Discipline went on to give them a place in all the assemblies of the church. 'Elderships and assemblies are commonly constitute of pastors, doctors and such as we commonly call elders, that labour not in the word and doctrine.'<sup>2</sup>

The whole conception of the 'doctors' was taken over from Geneva. It was, nevertheless, strengthened by the practice of the reformed church in France which had admitted professors of theology to consistories in August, 1563 and permitted them to be

1. Chapter V.

2. Chapter VII. para. 1.

deputies to the Synod which was the supreme court.<sup>1</sup> Melville probably had this in mind during the time in which the Second Book of Discipline was being drawn up. He would also have been aware that it had been the practice of the Kirk Session of St Andrews to permit some of the staff of the university there to be elected annually to the Session.<sup>2</sup> This had, however, grown up out of use and wont and legislation and constitutional theory had nothing to do with it.<sup>3</sup> Men elected from the staff of the university were probably introduced to be representative of an important interest in the town in view of the participation of the town council in the meetings of the session. Later 'the masters of the university, both professors of divinity and professors of philosophy, and even the doctor or master of the grammar school' were members of that presbytery,<sup>4</sup> due possibly to the influence of Melville.

1. Quick, Synodicon in Gallia reformatata. London, 1692. vol. i. p. 32.

2. Reg. of the Kirk Session of St Andrews. pp. 370 and 806.

3. Cf. D. Hay Fleming's Preface to the Reg. of the Kirk Session of St Andrews. p. xcvi and the footnote on pp. xcvi-xcvi.

4. A.F. Mitchell, History of the Scottish Reformation (ed. D. Hay Fleming) Edinburgh, 1900. p. 230.

Calvin's assertion that 'without Pastors and Teachers there can be no government of the church' and the definition of 'Doctors' in the Second Book of Discipline had no influence on the constitution of the church and the 'Doctor' has never had a special place within the courts of the Church. The practice of such presbyteries as St Andrews had no effect on the election of the Commissioners from the Universities to the General Assembly, who, as has been shown, attended for reasons different from those for diocesan and presbytery Commissioners, were appointed by a body outside the control of the Church and yet in spite of this were in no sense a special group within the Assembly which could have co-incided in any way with the 'Doctors' of Calvin or the Second Book of Discipline.

There may have been another reason why the 'Doctors' never found a special place in the Assembly. The Synod of the French reformed church, met at La Rochelle in April, 1571 and enacted, 'If there should arise any Contention concerning Doctrine, it shall be out of hand notified unto the Colloquy subordinate unto the Synods, where also the Elders and Professors in Divinity may be present, to give their judgement on the Points, but the Decision of these Controversies



hall especially belong unto the Ministers and Professors of Divinity.'<sup>1</sup>  
 his development was against the whole conception of the Church apparent  
 in the Scots Confession<sup>2</sup> and in the organisation of the General Assembly.  
 If the French tendencies were known to the Church this would have  
 strengthened the Assembly in its practice of the 'Doctors' being given  
 no specific place within the structure of the Court.

The other problem concerning the 'Doctors' which was never  
 solved was the control of their appointment and transfer. The theory was  
 stated in 'Articles' sent to the Queen during the Assembly of 1565.

'Thridlie, That none be permittit to have charge of schooles,  
 colledges or universities, or yet privatlie or publicklye to instruct  
 the youth, but such as shalbe tryed be the superintendents or visitors of  
 the church, found sound and abill in doctrine, and admittit be them  
 to ther charges.'<sup>3</sup>

- . Synodicon. vol. 1. p. 96.
- . N.B. The following excerpt from Article 18, 'The interpretation of  
 Scripture whereof, we confess, neither appertaineth to private nor public  
 person; neither yet to any kirk for any pre-eminence, or prerogative,  
 personally or locally, which one hath above another, but appertaineth  
 to the Spirit of God, by whom also the Scripture was written.'
- . B.U.K. p. 60.

This appeared again almost verbatim two years later in Assembly 'Articles'<sup>1</sup> and was confirmed by Act of Parliament in December, 1567 in the following terms:

'Forsamekle, as be all Lawis constituticunis: it is provuydit, that the zouth be brocht vp and instructit in the feir of God, and gude maneris: and gif it be vtherwyse, it is tinsell baith of thair bodyis and saulis, gif Goddis worde be not rutit in thame: quhairfoir, our Souerane Lord, with auise of my Lord Regent, and thre Estatis of this present Parliament, hes statute and ordanit, that all Schulis to Burgh and land, and all Vniuersiteis, and Collegis be reformat: And that nane be permittit nor admittit to haue charge and cure thairof in time cuming, nor to instruct the zouth priuatlie or oppinlie: bot sic as sal be tryit be the Superintendentis or visitouris of the Kirk'.<sup>2</sup>

The important omission was the request from the Assembly that such personnel should be 'admittit be them (i.e. the supertendents or commissioners) to ther charges.'<sup>3</sup> This was the point which gave rise to difficulties which were never effectively cleared away.

1. Ibid. p. 108.

2. A.P.S. vol. iii. p. 24.

3. B.U.K. p. 108.

The only case in the sixteenth century which appears in the records illustrates some of the problems in the moving of Andrew Melville from Glasgow to St Andrews at the order of the King. It was only lightly touched on by the Assembly as it was hoped to deal with the matter more fully at a later session of the Assembly of July, 1580. As it transpired, nothing further was ever decided.

'In the meane tyme, the questioun beand movit, If the Kirk might concurr with the Kings Majestie in transporting of Doctors fra ane Universitie to another for wechtie and necessar causes: The Kirk and Assemblie present, for the most pairt, vottit to the affirmative of the said questioun.'

At the same Assembly a question was raised 'Whither if in respect of the present necessitie, that ther is no Doctours within this realme, a Minister (or a Pastor) may be superseid the office of Pastorship for a tyme, and vse the office of a Doctour. It was ansuerit be the Kirk, That it may, be the command of the General Kirk, and vpon good consideratiouns.'

<sup>2</sup>

1. B.U.K. p. 466.

2. Ibid. p. 469.



that it had the power to forbid a minister in a charge to accept presentation by the Crown or, in the case of Edinburgh, by the Town Council of Edinburgh to a university chair although it never exercised such a right at any time.

Due to such happening, the 'Doctors' not only failed to find a definite place in the church and her courts but it was inevitable that in the end the Church of Scotland lost complete control even over the appointment and oversight of the professors within the theological faculties of the Scottish Universities.

The one difficulty which remained during the whole of the period was that some of the 'Doctors' were also ministers of the Word and in fact had to be as benefices had been appropriated to the universities and were looked after by the staff or by substitutes. In some cases this was not satisfactorily done, but this aspect of the problem does not need to be discussed here. The only cases which can be relevantly considered are those where the professorial staff were also the ministers of parishes. This was an unashamed continuation of a bad practice of medieval ecclesiastical life but it was forced upon the Church because

there was no other way to obtain money necessary for the payment of some of the universities' staffs salaries.

One example of this was the Nova Erectio of 1577 of the University of Glasgow which appropriated the fruits of the benefice of Govan to the University. This laid down that the Principal had to do his utmost to feed the flock in Govan and he must exhort them every Lord's Day to piety and uprightness. Melville was, of course, the person concerned but he was not at the solemn investiture which was held in the parish church of Govan on 6th September, 1577. So that he never appears either to have been ordained or inducted. Whether he sat as an elder or a minister in the lesser Courts of the Church will never be known but the balance of evidence is that he did not consider himself a minister of the Word and Sacrament in spite of the fact that he preached each Sunday in the parish church of Govan.

A slightly different situation could be cited regarding St. Salvator's where some of the staff were appointed to benefices to which the College had the right of presentation. In 1563, Provost John Rutherford became minister of Cults, William Ramsay

one of the masters, minister of Kemback and David Guild, another master, minister of Dunino.<sup>1</sup> Their successors always had some place within the organisation of the College until well into the following century.<sup>2</sup> They held office as regent, second or third master.

A summary of the whole situation in the Church during the sixteenth century would be that the situation was confused and that those who ministered to parishes would undoubtedly consider themselves to be ministers and the others as elders and that the General Assembly appears to have taken a similar attitude. The reason for the lack of clarity in this whole matter was not only that the difference between the minister of the Word and Sacraments and the 'Doctors' had always been difficult to define and that some were both professors and ministers but also that the reformers were not greatly concerned about the rite of ordination which made it difficult sometimes to know whether a man was ordained or not. After the arrival of Melville it appears that any emphasis

1. H. Scott, Fasti Ecclesiae Scoticae (new and revised edition)

Edinburgh, 1925, vol. v. pp. 138, 195 and 205.

2. R.G. Cant, The College of St Salvator, Edinburgh, 1950. pp. 168-9.



on the rite of ordination was discouraged. The words of James Melville to Archbishop Patrick Adamson because the latter differentiated between a 'Doctor' and a minister of the Word and Sacraments, in complete agreement with Calvin's point of view, is most revealing. 'That distinctioun of yours betuixt the clergie and laicks, ..... smelles of the pride of Papistrie, and arrongancie of these shavelings of the antichrist, who exteems themselves to be the holie inheritance of the Lord allanerlie, and the people to be, in respect of them, profane and unholie.'<sup>1</sup> Nevertheless, one thing is certain that there were never any 'Doctors' commissioned to the Assembly, in fact the early Assemblies were not concerned about who were commissioned but only to ensure that bodies entitled to send commissioners did so. The Assembly left the choice entirely in the hands of the universities, and their commissioners were recognised as such but given no special place in the court.

The Act of Assembly of 4th August, 1643 made the position quite clear for the first time and definitely departed from the

1. Calderwood, History, vol. iv. p. 517.

constitutional theory which had, according to its documents, been held by the Assembly although it had never been put into practice.

The Act stated that 'The Assembly thinks: if Professours of Divinitie in Universities be Ministers, that they may be chosen as Commissioners to the Generall Assembly, either by the Presbyterie as Ministers, or by the Universitie as Professours of Divinitie.'<sup>1</sup> The important phrase is 'if Professours of Divinitie in Universities be Ministers.' It is doubtful if this was legal as the Universities were still free to commission whom they thought fit if such a commissioner was not a minister. Although it does show confusion of thought it reveals that the Assembly had no place for 'Doctors' per se. Thus at this date the Church decided to depart from the principles laid down by the Second Book of Discipline as far as 'Doctors' were concerned and to acknowledge by its enactments that it had never really given a place to the 'Doctors'.

During the course of time a slight change was introduced but<sup>2</sup>

1. Act of G.A. 1643. 'for election of Proffessours to Commissioners to Assemblies by Presbyteries.'
2. Acts of G.A. 1839. xii. and 1908. xxx. 1.

down to the present day the Assembly has left no distinct place or function for the 'Doctors' within its constitution.



### The Moderator

A moderator does not appear in the Assembly until its meeting on 25th December, 1563.<sup>1</sup> This would seem to have been postponed because of the Assembly's relations with the Crown in 1560. The reason for the ultimate appointment of such a chairman as stated to be 'for avoyding confusion in reasoning, but that verie brother sould speake in his awin rowme.'<sup>2</sup> Although the minute of appointment of John Willock as moderator records that the Lords of Secreit Counsell, with the haill brethren of the Assemblie,<sup>3</sup> made the appointment, the election was, in fact, little more than a formality until June, 1578 when leets were drawn up for the first time.<sup>4</sup> The participation of the Privy Council in the election was, on the other hand, no mere formality as has already been shown.<sup>5</sup>

There was probably a chairman of some kind from the beginning although no formal appointment was made. Due to the

. B.U.K. p. 38.

. Ibid.

. Ibid.

. Ibid. p. 412.

. See pp. 74-5. *supra*.

act that the meeting would be constituted by prayer and possibly sermon, it is almost certain that a minister presided. Knox consciously avoided appointment to the superintendancy and the moderatorship of the Assembly so that it is quite definite that he never occupied the chair during this period of uncertainty although some historians have suggested this without any support from the records.<sup>1</sup> The one who was most likely to be chairman during this time was John Willock whom George Crawford of Leffnorys stated had been chosen by the reformers, 'Primat of thair religioun in this ealme'.<sup>2</sup>

The moderator was nothing more than a chairman, who, after appointment, chaired the meeting and closed it with prayers. At the next Assembly he opened it with a sermon and prayer and then made way for the moderator of that Assembly. He had no status during the time between the Assemblies nor had he any power to

. E.g. David Laing, 'A Table of General Assemblies of the Kirk of Scotland, from 1560 to 1618.' in Calderwood, History, vol. viii. p. 306.

. Wodrow Society Miscellany. vol. i. p. 267.

take the initiative in anything; even the calling of a subsequent Assembly was never remitted to him.<sup>2</sup>

Any similarity between the Conservator of the former provincial Councils which some attempt to demonstrate<sup>3</sup> is of no importance in this matter. The office had no influence upon the position of the moderator of the General Assembly. He had none of the powers of the Conservator.

The Conservator of the Scottish Provincial Council, although no more than primus inter pares held his office from Council to Council and had a duty to ensure that the decrees of the Council were observed and to punish offenders;<sup>4</sup> although it is difficult to

1. This remains the position. Although the General Administration Committee of the General Assembly is well aware of this, it has presented to the Assembly for some years a deliverance, the Assembly always approving, that the Assembly 'record their appreciation of the services' of the moderator of the last Assembly 'during his year of office as Moderator of the General Assembly' which is self-contradictory.
2. See pp. 283-300. *infra*.
3. Patrick, Statutes, p. xxxvi.
4. 'qui de Concilio ad Concilium suo fungatur officio . ac manifestos et notorios eiusdem Concilii seu alicuius statuti in eodem uiolatores puniat. et ad debitam satisfactionem per censuram ecclesiasticam secundum iuris exigenciam efficaciter compellat.' Statuta, vol. ii. p. 10.



see how these functions could have been put into practice. On him rested the duty of convening the Council.'

This has been suggested as the source from which the idea of a moderator of the General Assembly sprang,<sup>2</sup> but, although it may be thought useful by some to give a kind of 'apostolic succession' to the moderator, this theory cannot be maintained. The moderator was only chairman of the Court while it was sitting. He had nothing further to do after the Assembly closed.

It is not absolutely certain which external influence eventually directed the Assembly to decide upon the type of chairman which they should have and what he ought to be called.

The title 'moderator' was probably used because the same nomenclature was used for those who presided at the academic disputations of the universities in the Middle Ages.<sup>3</sup> These officials of the

1. Ibid. p. 9.

2. Patrick, Statutes. p. xxxvii.

3. The whole subject of disputation in medieval universities is very fully dealt with in Rashdall, Universities in the Middle Ages. ad index 'disputations'. Moderators are referred to in vol. i. p. 479.

university were still called moderators in the university of Glasgow until at least the end of the seventeenth century.<sup>1</sup> The rector of a grammar school was on occasions referred to as moderator in Scotland before the reformation.<sup>2</sup>

The immediate origin was most probably Geneva. The Company in Geneva, composed of the ministers and professors of theology of the city and canton, was responsible for the affairs of the Church in general, with the ministry and the academy.<sup>3</sup> The president of the company was called 'modérateur.' Although Calvin held this office until his death and was succeeded by Theodore Beza who was moderator for sixteen years, Beza was convinced that there should be a moderator elected annually. He only remained in office because the other ministers in Geneva would not allow him to demit office until 1580.<sup>4</sup>

1. Moderators are mentioned about 1581, in 1594 and again in 1635. John Lee, Lectures on the History of the Church of Scotland, (ed. Wm. Lee) Edinburgh, 1860. pp. 375, 380 and n.β.
2. MS. Blairs College Archives, Letters 1/C.9. (c.1554-1559) quoted in the Innes Review. vol. x. pp. 87-88.
3. H. Meyer, L'Eglise de Genève. Geneva. 1909 pp. 18-19.
4. E. Choisy, L'Etat Chrétien Calviniste à Genève au temps de Théodore de Bèze, Geneva and Paris. n.d. pp. 169-178, 370.

The name and office of 'moderator' had been in use in the English Congregation at Geneva since before 1556 as the name and a certain duty are mentioned in 'The forme of prayers and ministration of the Sacraments etc.' printed by John Crespin in that year. In the section dealing with 'Interpretation of Scriptures', it is laid down that, 'if so be any contencion rise, then suche as are appointed moderatours, either satisfie the partie, or els if he seme to cavill, exhorte hym to kepe silence, referring the judgement therof to the ministers and elders, to be determined in their assemblie or Consistorie before mencioned.'

From France comes something more specific and this more detailed office may well have been that which was envisaged by the Scots. It was decided at the First National Synod of France which met at Paris on 25th May, 1559, that 'II. A Moderator shall be chosen by general Consent in every Synod, who shall give Notice of the Days and Places of Meeting, and of Sessions of the Synod: And he shall gather the Suffrages, and declare which is the greater Number, and pronounce the Synodical Decisions. Moreover, he shall see that Order be observed in Speaking, without confusion, and impose Silence on such as are eager and contentious and in case of Disobedience, he shall cause them to withdraw, that Advice



may be taken how to Censure them. Moreover, he shall preside at the Censure of every Person, and make the Remonstrances. As also to give Answers in case of Counsel demanded; or unto Letters sent unto the Synod, yet therin always observing the Advice of the Assembly; And he himself also shall be subject unto Censures. The Office of the Moderator shall expire with the Synod; and the next Synod is at liberty to chuse him or any other.'

If a local influence directed the mind of the Assembly to decide upon the type of chairman which they had and to give him the name of moderator, the only body which could possibly have done that was the Convention of Royal Burghs. The Convention's chairman was called moderator until 1675 and his powers were similar to those of the moderator of the General Assembly. If this was the source from which the idea of a moderator came, it can only be adduced hypothetically due to the unsatisfactory state of the records of the early Conventions. The first mention of a moderator appears in 1574,<sup>2</sup> but as the Convention was much

1. Quick, Synodicon, vol. i. p. 2, and Discipline or Book of Order of the Reformed Churches of France (Translated from the Orleans edition of 1675 by Marguerite G. Campbell), London, 1924, pp. 26-7.
2. Records of the Convention of Royal Burghs. vol. i. p. 30.

older than the Assembly it may be that the name was used by the convention before the Assembly of 1563. The election of a moderator in the convention was exactly the same as at the Assembly. It was the first piece of business undertaken and it was, like the early Assemblies, 'merely a formal affair'.<sup>1</sup>

Probably all three sources contributed to the concept which the Assembly had of a moderator.

When the Commissioners met at the second Session of the Assembly on 6th June, 1578, they changed the procedure for the election of a moderator. For the first time they drew up a list of names and voted on them.<sup>2</sup> The one with the most votes, who in this case was John Row, minister of Perth, was elected moderator.<sup>3</sup> No reason is given in the minutes for this change in practice nor can anything be deduced from contemporary events but it may have arisen from some tension within the Assembly. This remained the normal way in which the moderator

1. T. Pagan, The Convention of the Royal Burghs of Scotland, Glasgow, 1926. p. 46.

2. B.U.K. p. 412.

3. Ibid.

was elected during the sixteenth century.'

Little influence seems to have been exerted from outside on the Assembly in connection with the election of a moderator, although there is one reference to the King having taken part in the appointment of a moderator. In 1586, after the Assembly had moved its place of meeting from the Over Tolbooth to the Chapel Royal in Holyrood Place, it is recorded that the King had 'made an harang' and 'Thereafter prayer being made be Mr Robert Pont, the Kirk proceedit to the nominatioun of Mrs. Peeter Blackburne, David Lindsay, Nicoll Dalgleisch, James Balfour, to be on leits for choosing a Moderator, and the said Mr. David electit Moderatour hac vice. The King voted first for him, so the votes went after.'<sup>2</sup>

The suggestion made by Dr. Reid that the custom of preparing a leet of three from which the Assembly chose the moderator was 'a practice probably continued from that which is still followed in the

1. John Spottiswood, archbishop of St Andrews, assumed the status of moderator of the General Assembly at its meeting of August, 1616, and continued to do so at the instigation of James VI but this was never considered as regular.

2. B.U.K. p. 646.



Roman method of appointing a bishop,<sup>1</sup> is entirely incorrect as such a method of electing of bishops is a modern post-reformation practice within the Roman church.

The Moderator seems, from the beginning, to have been responsible for preaching and conducting public worship at the opening of the Assembly immediately after that over which he moderated, although it was not laid down until the Assembly of March, 1569.<sup>2</sup>

This was the recovery of a medieval practice. For example, from at least the beginning of the fourteenth century, at the Convocation of Canterbury, it was the normal practice, after the Archbishop or another of the bishops had celebrated Mass, for the Archbishop to preach.<sup>3</sup> These sermons were delivered in latin. A somewhat similar practice was followed in Scotland during the thirteenth

1. H.M.B. Reid, The Divinity Principals in the University of Glasgow. 1545-1654. Glasgow, 1917. p. 104.
2. B.U.K. p. 157.
3. David Wilkins, Concilia. vol. ii. p. 312 on 25th November, 1309, Chronicles of the Reigns of Edward I and Edward Second. (ed.W.Stubbs)Rolls Series. London, 1882, vol. i. p. 344. on 27th January, 1329 and Reg. Isle, fol. 117-117v. quoted by Weske, Convocation, p. 130 on 16th May, 1356.

century.<sup>1</sup> Gradually this practice was changed and by the beginning of the next century it was becoming usual for the sermons at the commencement of ecclesiastical councils to be delivered by some distinguished scholar instead of the presiding bishop.<sup>2</sup> In Scotland, this may have happened later than in England. There were reasons for this; the growing tendency, until the reformation, of fewer and fewer bishops being appointed who had studied theology, the bishops' greater involvement in secular affairs and, in many cases, their poor knowledge of latin.<sup>3</sup>

The reformers, with their placing of the Bible, the sacraments

1. 'Statuimus etiam in primis . vt quolibet anno uerbum predicacionis cuilibet Episcoporum vni post alterum iniungatur . in proximo Concilio . per se uel per alium proponendum . incipiendo ab Episcopo Sancti Andree . et quot vnus Episcoporum Conseruator Statutorum Concilii ordinetur de consilio reuorum' Statuta, vol. ii. p. 10.
2. E.g. at the Synod which met in London in 1402 and at the Convocation which met at York in 1426. Concilia, vol. iii. pp. 273 and 487.
3. It is not recorded who preached at the opening of the Provincial Synod and General Council of 1420 (Statuta. vol. ii. p. 77) but at the Provincial Council of 1549 after high Mass had been celebrated and the Council seated in the hall of the Friar Preachers, it was addressed by a very learned licenciate in theology (eruditissimum in Sacris licentiatum) (Statuta. vol. ii. p. 85).

and theology at the centre of the Church's life, demanded that all ministers be preachers and as a result those who presided over ecclesiastical courts were the preachers on such occasions in Scotland.

The practice outlined in 1569 has continued to the present day.

It would appear that only ministers and professors of theology were eligible for election as moderator; such was also the practice in synods towards the end of the century. As has already been mentioned, the moderator would have to be one who was permitted to preach as this duty devolved upon him but unlike the French reformed church synod it appears that the Lord's Supper was never celebrated within the Assembly or otherwise the moderator could only have been a minister of the Word and Sacraments.

The moderator as chairman of the court had to pronounce the sentence of the Assembly to those summoned before it. He had to rebuke, censure, depose and excommunicate in the name of the Assembly and this would seem to indicate the necessity of a minister being moderator, but, due to the lack of differentiation between the ministers and the 'doctors', the Assembly imposed duties upon the



'doctors' which ought only to have been fulfilled by ordained ministers. Two moderators, at least, were never ordained.'

During the whole period there was no public connection between the Lord High Commissioner and the nomination and election of the moderator. The incident at the Assembly of 1726 when Dr. William Mitchell was nominated by the Lord High Commissioner reveals that such a practice must have grown up in the eighteenth century. A change was afoot, Wodrow wrote at the time, 'those I speak of are not for still being tied down to one named by the Commissioner'.<sup>2</sup>

The fact that the moderator, until the Assembly of July, 1569, was either a superintendent or commissioner for the visiting of churches is significant and until the end of the century this

1. George Buchanan was never ordained. There is no evidence to support the assumption of John Lee 'that Buchanan was as much in orders as any of the other ministers admitted into the Scottish Church about the time of the Reformation'. Lectures, vol. ii. pp. 350. Andrew Melville was never ordained either. Reid, op. cit. p. 44. Dr. Reid's remarks on p. 31. are anachronistic.
2. The Correspondence of the Rev. Robert Wodrow, (ed. T. McCrie) Wodrow Society, 1843. Edinburgh. vol. iii. p. 240.

remained the usual custom. From the superintendants, commissioners and the principals of the universities came the moderator for all but a dozen or so of the Assemblies of the sixteenth centuries. If the ministers of Edinburgh are added to this group the number is reduced by half.<sup>1</sup>

1. See 'A Table of General Assemblies of the Kirk of Scotland, from 1560 to 1618'. in Calderwood, History, vol.viii. pp.306-311.

## Officers of the General Assembly.

The General Assembly, when it appointed its officials, took the practice of the State as its precedent and used the same names to describe those who did similar work for the Assembly as those employed by the State. It is obvious, of course, that it did not need the large staff which was required by the secular government and courts. As a result, no parallel to some State officials is found in the ecclesiastical administration and, sometimes, the work of more than one State servant was done by one in the Church.

The clerk of the rolls and register, or clerk of register, council and rolls, which at the beginning had been the King's Clerk, by the time of the reformation, was referred to as the Clerk Register and was the 'presiding clerk of Parliament, of the Privy Council, of the Courts of Session and Exchequer, and of all royal and parliamentary commissions.' He had the power to appoint 'deputies or assistants in these respective offices. The records of these bodies and of various administrative departments of State, with their warrants or instructions and all State



papers, remained ex officio in his custody'.<sup>1</sup>

The function of the Church's Clerk within the General Assembly was similar to that of the Clerk Register in the secular administration, whether the Assembly was acting in a legislative or judicial capacity. Although it is certain that he was not ex officio clerk to Commissions of the General Assembly. Like the Clerk Register who was required to attend personally in Parliament,<sup>2</sup> it was his duty to be present at every Assembly but could not take part in any of its proceedings.<sup>3</sup> The records of the General Assembly, which were normally in his possession, were, like the State's, invariably referred to as the Registers.<sup>4</sup> It should also be noted that during the period under discussion the Clerk Register was normally an advocate. This dates from the time of Thomas Marjoribanks of Ratho who was appointed on 5th February, 1549. His predecessor,

1. M. Livingstone, A Guide to the Public Records of Scotland. Edinburgh. 1905. pp.iii-iv.

2. Rait, Parliaments of Scotland. p. 517.

3. The Clerks of Assembly were not permitted to be members until the passing of the Act of G.A. 1871.

4. cf. pp.8. supra.

James Foulis of Colinton, having been appointed before the Act creating the Court of Session, was not an advocate.<sup>1</sup> The General Assembly adopted the same principle from the time of the appointment of Thomas Nicolson<sup>2</sup> and it was not until the rise of the Moderates in the seventeenth century that the practice of appointing ministers arose.<sup>3</sup>

The Queen's Advocates were the models for the Advocates of the Church.<sup>4</sup> Even when James VI ceased to appoint more than one King's Advocate in 1582, the Assembly followed this precedent and thereafter only employed one Church's Advocate.<sup>5</sup>

The Assembly, when the need for an ecclesiastical financial official arose on the re-organisation of the collection of the Thirds

1. Livingstone, op. cit. pp. 222 et seq.

2. cf. p. 264. *infra*.

3. The first was George Wishart, one of the ministers of Edinburgh, who was appointed principal Clerk in 1746, Act of G.A. 1746. 8.

4. For an account of the Advocate and the holders of the office. cf. G.W.T. Omond, The Lord Advocates of Scotland from the close of the fifteenth century to the passing of the Reform Bill. Edinburgh, 1883. 2 vols.

5. cf. pp.272f.below.

of Benefices in 1567, appointed the Church's Comptroller.<sup>1</sup> The duties of the State's comptroller, treasurer, collector and secretary<sup>2</sup> were telescoped into one and the title of the senior of the four given to the Church's Comptroller. When the State took over the collection of the Thirds in 1572 again,<sup>3</sup> the office lapsed and was never resuscitated.

The origin of the one officer of the Assembly which was not inspired by the State was the Church's Solicitor. In fact as has been shown it was only after the passing of the Annexation Act of 1587 that the King felt that the appointment of William Macartney W.S., possibly a kinsman of the first Church's Solicitor, as the first King's Solicitor was necessary. His function within the State was similar, initially, to what had been done by the Church's Solicitor on behalf of the Crown as well as the Church.<sup>4</sup>

1. B.U.K. p. 113.

2. Livingstone, Public Records of Scotland. p. 29.

3. B.U.K. pp. 232-4 and R.P.C. vol. ii. pp. 111-3.

4. C.A. Malcolm 'The Solicitor General for Scotland' in Juridical Review. vol. liv. pp. 68-71.



## C l e r k .

From its first meeting the Assembly must have made someone responsible for the keeping of minutes but there is no reference to an appointment being made at that meeting. The first appearance of such a person was in June 1562 when John Gray signed the minutes as clerk.<sup>1</sup> From the accounts of the Collectors of the Thirds of Benefices it is known that Gray was paid from 1st November, 1561 as clerk of the Assembly.<sup>2</sup> There were only two meetings before that date and it can be assumed that his appointment was made at the meeting of the Assembly in December, 1560. It is worth noting that he does not appear ever to have been commissioned to attend the Assembly.

The reason for John Gray's appointment was very likely that he had been known to John Knox for more than a decade before 1560.<sup>3</sup>

1. B.U.K. p. 24.

2. Thirds of Benefices. pp. 93 and 95.

3. John Gray, parson of St.Nicholas beside Cupar, who had been implicated in the murder of Cardinal Beaton, was in the galleys with Knox and released in July, 1550. Knox, History, vol.i. p.111. There is an entry in the Lord High Treasurer's Accounts in 1547 relating to the seizure of his goods as he was 'fugitive fra the lawes for art and parte of the slauchter of the Cardinall'. Accounts of the Lord High Treasurer of Scotland. (ed.J.B.Paul) Edinburgh, 1911, vol.ix. p.45.

His considerable administrative experience in the pre-reformation church in Scotland and abroad may also have been considered as being of value to the Assembly.<sup>1</sup> He continued to be closely associated with Knox and, as<sup>2</sup> the amanuensis who wrote the early part of the final manuscript of Knox's History he and Knox must have been in close contact with each other until the death of the latter.<sup>3</sup>

The clerk kept the minutes of the meetings in a folio volume.<sup>4</sup> Four such volumes were filled by Gray and his successor.<sup>5</sup>

He performed the usual duties which would be expected from a secretary to such a body. He had the custody of the Register of the

1. In November 1558, John Gray, en route to transact business at the Roman Curia, delivered letters from the Lords of the Congregation to John Calvin asking 'that by his authority he would command the said John (Knox) once again to visit them'. Knox, History, vol. i. p. 137.
2. Extracts from the Records of the Burgh of Edinburgh. vol. iv. pp. 162 and 164.
3. This is suggested by David Laing in his introduction to Knox's Works. vol. i. p. xx and see also Wodrow Society Miscellany. vol. i. pp. 287-88 and the facsimiles therein.
4. B.U.K. p. 24 and The Letters and Journals of Robert Baillie. (ed. D. Laing) Bannatyne Club, Edinburgh, 1841. vol. i. p. 129.
5. Baillie, Ibid.

Assembly,<sup>1</sup> issued certified extracts of the proceedings,<sup>2</sup> and signed documents in the name of the Assembly<sup>3</sup> in the same way as clerks of civil courts.<sup>4</sup> He issued and received letters on behalf of the court which were, on occasions, read to it.<sup>5</sup> In addition he received reports from commissioners in discipline cases for submission to the Assembly.<sup>6</sup> In certain instances he certified, with the Clerk to the Privy Council, true copies of 'Articles' which had been presented to the Privy Council by the Assembly.<sup>7</sup>

As well as being clerk, he was the Keeper of the Register of Stipends.<sup>8</sup> This appointment may have been under the sole jurisdiction of the Privy Council as the actual 'register buke of ministeris stipendis' was compiled in the spring of 1562 by a committee of the Privy Council and was approved and signed by that committee.<sup>9</sup> The superintendents

1. B.U.K. p. 646.

2. Ibid. pp. 629 and 727 and S.H.R. vol. x. pp. 159-161.

3. Ibid. pp. 85, 97, 186 and 191.

4. The Sheriff Court Book of Fife. 1515-1522. (ed. W.C. Dickinson) S.H.S. Edinburgh, 1928. pp. lx-lxi.

5. B.U.K. pp. 134 and 287.

6. Ibid. p. 80.

7. Ibid. p. 106.

8. Thirde of Benefices. p. 297.

9. Ibid. p. xii.



only supplied additional information for the compilation of the Register on the instructions of the Assembly in December of the same year.<sup>1</sup>

The keeping of the Register involved him in an immense amount of correspondence, as securing possession of manses and glebes, as well as the receipt of stipend, was the source of much trouble to the ministry at that time.<sup>2</sup>

For the work involved as Clerk to the General Assembly and Keeper of the Register of Stipends, he received an annual salary of £100 from 1st November, 1561 which was paid out of the Thirds of Benefices.<sup>3</sup>

After the death of John Gray, the Assembly, at its meeting on 7th August, 1574, proceeded for the first time to appoint a clerk officially. A committee of eight was instructed to draw up a short list for the vacant clerkship.<sup>4</sup> Four names were selected.<sup>5</sup> Until the

1. B.U.K. p. 26.

2. Ibid. p. 340.

3. Thirds of Benefices. pp. 95, 152, 297.

4. B.U.K. p. 299.

5. Ibid.

appointment was made, Andrew Milne was employed as interim clerk.<sup>1</sup>

He was not on the leet. Two sessions later, the Assembly elected

James Ritchie clerk by a majority vote. He was sworn in 'to use the

said office of clerkship of the Kirk faithfullie' and 'acceptit the

said office upon him'.<sup>2</sup> The taking of the oath de fideli administatione

by the clerk, although in all probability adopted from the practice

of the Scottish civil courts,<sup>3</sup> had had a place in the medieval church.<sup>4</sup>

His work was much the same as his predecessor's<sup>5</sup> and he also kept the Register of Stipends.<sup>6</sup> He received the same salary as the previous clerk out of the Thirds.<sup>7</sup>

1. Ibid.

2. Ibid. p. 302.

3. The Sheriff Court Book of Fife. p. lx. and The Court Book of the Barony of Carnwath 1523-1542. (ed. W.C. Dickinson) S.H.S. Edinburgh, 1937. p. lxxxi.

4. cf. Registrum Ludowici de Charlton, Episcopi Herefordensis. AD. MCCCLXI - MCCCLXX (ed. J.H. Parry) Cantilupe Society, London, 1914. p. l. where a bishop's oath of fidelity to his diocese is recorded.

5. B.U.K. pp. 307, 450, 577, 629, 656, 705, 727 and 782.

6. Ibid. p. 311.

7. Ibid. p. 340.

He served on two special committees due to his special knowledge<sup>1</sup> but, like Gray before him, he did not take a great part in the affairs of the Court.

There is a reference during Ritchie's clerkship to the Moderator and Clerk signing on behalf of the Assembly. This was because the letter was addressed to the Reformed Church of France.<sup>2</sup> On all other occasions the clerk signed alone on behalf of the Assembly.

Thomas Nicolson, who had been admitted to the Faculty of Advocates on 9th July, 1594,<sup>3</sup> was appointed Clerk shortly after the death of Ritchie in 1596. This was done by seven of the Commissioners deputed by the Assembly of 1596 'to intreat and conclude in the affaires of the Kirk, quhilk sould fall out betuixt and the nixt Generall Assembly.'<sup>4</sup> Whether such an appointment came within their remit is open to question but the matter was regularised when, at its first session, the next General Assembly did not 'corraborat his admissioun with thair authoritie' as it was requested to do but 'the brethren conveinit, all in an voyce,

1. Ibid. pp. 592 and 856.

2. Ibid. p. 657.

3. Grant, Advocates, p. 165.

4. B.U.K. p. 889.



hes creatit and admittit the said Thomas de novo, and electit him to be Clerk of the Kirk.'

This minute did not conclude the matter as at the next Assembly, according to the records, Nicolson and John Williamson, writer, were put on a leet from which Nicolson was chosen clerk.<sup>2</sup> There is no doubt however that Nicolson acted as clerk, to the General Assembly from the time of his appointment by the seven commiss-ioners of the Assembly of 1596.

Nicolson was the son of James Nicolson, writer and clerk of the collectory of the Thirds of Benefices.<sup>3</sup> From 1573, he received, for some years the third of the Trinity Friars of Aberdeen in order to assist him during his studies.<sup>4</sup> He probably, like his

1. Ibid.

2. Ibid. p. 913.

3. Grant, op. cit. and Thirds of Benefices. pp. 62, 67, 117, 130, 138, 170, 212, and 297.

4. This amounted to £18:4:1/3. The Early Records of the University of St. Andrews (1413-1579) (ed. J.M. Anderson) S.H.S. Edinburgh, 1926. pp. 297, 302 and 304. By a charter of James VI he was granted the life-rent of the monastery of the Order of the Holy Trinity on 14th May, 1576 which had fallen to the King on the death of Alexander Menzies, R.M.S. vol. iv. p. 693.

brother John,<sup>1</sup> attended classes at the University of St Andrews but did not graduate. He was a cultured man as the identifiable remains of his library shows<sup>2</sup> and it is more than likely that he was influenced, if not taught for a time, by Edward Henryson<sup>3</sup> who was his brother's father-in-law.<sup>4</sup>

The period of Nicolson's clerkship ended in 1618 when he resigned and suggested James Sandilands, advocate, as his successor.<sup>5</sup> The Assembly agreed to this and Sandilands was appointed Clerk.<sup>6</sup> The reason for Nicolson's resignation may have been that, at his age he was

1. The early Records of the University of St. Andrews. p. 172. John received, from 1577 until 1579, 'the maillis of Middil Drummis quhilk pertenit of befoir to the commonis of Brechin.' Ibid. p. 307 and n.
2. J. Durkan and A. Ross, 'Early Scottish Libraries'. in the Innes Review vol. ix. pp. 35, 39, 53, 56, 57, 58 and 110. It is surprising that there is no mention of any law books.
3. For a short account of Henryson cf. T. McCrie, Life of Andrew Melville. (new edition) Edinburgh, 1856, p. 460, Note xx. and Durkan, 'The Cultural Background in Sixteenth-Century Scotland' in Innes Review, vol. x. p. 400.
4. Grant, Advocates. p. 164. John Nicolson would appear to have succeeded his father-in-law as one of the Commissaries of Edinburgh in 1585. Ibid.
5. B.U.K. p. 1144.
6. Ibid.

finding it impossible to cope with all his work. He was Commissary of Aberdeen and Professor of Civil Law at the University of Aberdeen.<sup>1</sup> His successor was also a Commissary and later Professor of Canon Law at Aberdeen.<sup>2</sup> The supposition that Nicolson resigned because of the pressure of work is made more likely by the fact that he was not always present at the Assemblies and James Melville, Henry Philip, John Sharp and Richard Thomson served on occasions as Clerk<sup>3</sup> and during his period of clerkship he appointed Robert Winrame depute clerk.<sup>4</sup> It is likely that Winrame was only the keeper of the Register of Assignations and Modifications of Minister's Stipends as he was never present at an Assembly nor signed documents on its behalf. His servant Alexander Blair succeeded him as keeper of that Register.<sup>5</sup>

1. ed. C. Innes, Fasti Aberdonenses, Selections from the Record of the University and King's College of Aberdeen, Aberdeen, 1854. pp. 139, 142-3, 274-5, 278, 280, 297.
2. Ibid. passim.
3. B.U.K. pp. 740; 666; 1014-1017; 1013 and 1057.
4. Ibid. p. xxv.
5. Ibid.



### The Advocate.

The reason for the appointment of the Church's Advocates, which was the same as the State's in its appointment of the King's Advocates, was that the Assembly would have properly instructed persons to act on behalf of the Church, duly advised by the Solicitor, in all civil courts. Their office, it would seem, did not require them to be in attendance at the Assembly and they were not members of the General Assembly nor present unless commissioned to attend. If they were commissioned they had nothing more to do in the Assembly than any other commissioner was eligible to do. In this respect, they were different from the King's Advocates who, by the time of the reformation, had seats in parliament and the Privy Council ex officio and had a right to vote.<sup>1</sup> All procedural matters were in the hands of the moderator. The Church's Advocates were in no sense advisors to the Assembly on its own procedure and therefore very unlike the mid-twentieth century Procurator of the Church whose main duty that now tends to be. Such a situation would have been impossible to a Court which realised what its own practice was and the need always to control itself.

1. Omond, Lord Advocates. vol. i. pp. 22-3.

It was not until 29th June, 1564 that 'The haill Assemblie in ane voyce choose James Mc Kaitney (read James Macartney), to be Solicitor for the actions of the Kirk to be pleaded before the Lords of Secreit Counsell or Session; to proceed with the advice and counsell of Mr Thomas Makcalzeane, David Borthwick, and Richard Strong (read Strang) Advocates'.<sup>1</sup> They were naturally all members of the Faculty of Advocates.<sup>2</sup> These three were the first Advocates of the Church and were appointed in order to regularise a situation which up until that time had been undefined. Actions in the civil courts had arisen before this date and a solicitor especially must have been appointed by some group within the Assembly in order that steps could be taken to raise an action or defend a case, in which the Assembly was involved. Because this was irregular, these appointments were made by the General Assembly itself, being the only authority which could instruct personnell to act on its behalf and the advocates were given the official status of the Church's Advocates. The appointment of more than one Advocate of the Church was the obvious action for the Church to take as, until 1582, there were always more than one

1. B.U.K. p. 50.

2. Admitted to the Faculty on 16th November, 1537, 1st March, 1549 and 13th November, 1555 respectively, Grant, Advocates. pp. 128, 17 and 203.

King's Advocate appointed. John Spens of Condie and Robert Crichton of Ellicock were the Queen's Advocates in 1564.<sup>1</sup>

On 26th December, 1567 there is recorded in Calderwood the appointment of Clement Little, Alexander Sime and Richard Strang as 'procurators to defend and pursue all actiouns perteaning to the kirk.'<sup>2</sup> As would be expected, Little and Sime, too were members of the Faculty of Advocates.<sup>3</sup> The reason for Makcalzeane and Borthwick being replaced are not stated. It was not because of their elevation to the bench as they were not appointed Ordinary Lords until 20th October, 1570<sup>4</sup> and 20th October, 1573,<sup>5</sup> respectively.

Up until that time no salaries had been paid to the Advocates. It can be assumed that fees were paid when any professional services were required although there is no record of any such payments. After Little

1. Omond, op. cit. vol. i. p. 25.
2. Calderwood, History, vol. ii. p. 399.
3. Little admitted to the Faculty on 21st August, 1560 and Sime on 13th November, 1555. Grant, Advocates. pp. 124 and 205.
4. Pitmedden MS. quoted by G. Brunton and D. Haig, An Historical Account of the Senators of the College of Justice from its Institution in MDXXXII Edinburgh, 1832. p. 150.
5. Pitmedden MS. quoted Ibid. p. 155.



and Sime took up office and Strang continued as Advocate, but only Robert Strang received payment for this appointment from 1567.<sup>1</sup> His salary was paid out of the Thirds of Benefices.<sup>2</sup> He received this allowance either because he had served the Assembly since 1564 in this capacity or because he was the poorest of the three and required a retaining fee. The others were Commissaries for Edinburgh.<sup>3</sup> Strang was near the centre of affairs<sup>4</sup> but this could not have been the reason for his having received payment as Little and Sime did more work in Assembly Committees.<sup>5</sup> Clement Little of Liberton was well connected and was in a position to exert influence in certain quarters<sup>6</sup> and Sime had also been in touch with influential people even since before the

1. He received £ 53 . 6 . 8. for the years 1567 to 1569 and £ 26.13. 4 from 1569 to 1572. (Thirds of Benefices. p. 297).

2. Ibid.

3. For the relationship between the Assembly and the Commissary Courts see pp.

4. Knox, History, vol. ii. pp. 40-41.

5. B.U.K. passim.

6. His brother William was Provost of Edinburgh from 1585 to 1587 and in 1591. (Lord Provosts of Edinburgh 1296-1932, Edinburgh, 1932. pp. 29-30).

reformation.<sup>1</sup>

There is a reference by Brunton and Haig to Edward Henryson being procurator of the church in 1573<sup>2</sup> which relies on P.F. Tytler, The Life of Sir Thomas Craig<sup>3</sup> but the reference quoted by Tytler refers to a case in which Henryson appeared for the university of St Andrews<sup>4</sup> and there is no suggestion that Henryson did then or at any other time act as the Church's Advocate.

Subsequent to the deaths of Little, Sime and Strang,<sup>5</sup> the Assembly made a change by appointing only one Advocate of the Church. Although the minutes of the Assembly do not mention the nomination nor the election of anyone to succeed them, it is almost certain that Thomas Craig was

1. On 5th February, 1556, a few month after his admission to the Faculty of Advocates, he was appointed the Queen Regent's Reader in Law and other sciences at Edinburgh or wherever she might appoint. R.P.C., MS. vol. XXVIII, fol. 10 quoted by McCrie, Melville. p. 460.
2. Senators of the College of Justice. p. 133.
3. Edinburgh. 1823. p. 273.
4. McCrie, op.cit. p. 460. Note WW. He quoted a MS. source from the papers of the University of St Andrews.
5. Little died on 1st April, 1580 and Sime on 22nd February, 1584. There is no record of the date of the death of Strang. Grant, Advocates. pp.124, 205.

their successor. A statement made by Thomas Gray, advocate, in 1606, which is quoted by Calderwood, states that Thomas Craig 'had a yeerelie rent to procure for the Kirk',<sup>1</sup> Wodrow states that he was 'the Church's Advocate'<sup>2</sup> and Warison mentions in his diary that his maternal grandfather, Sir Thomas Craig, had been 'advocat for the kirk'.<sup>3</sup> It is quite possible that Craig was their immediate successor as he had been an advocate since 1st February, 1564.<sup>4</sup> He was also probably the first to hold sole right to the office of the Church's Advocate as no other advocate was appointed in addition to Craig. This was again following the practice of the State, as Robert Crichton of Elliock was permitted to remain the only King's Advocate after the death of David Borthwick of Lochill, the other King's Advocate, who died on 31st January, 1581.<sup>5</sup> Crichton's right to hold this appointment alone was in accordance with the promise which the King had made to him

1. Calderwood, History. vol. vi. p. 378.

2. MS. Life of Mr John Forbes quoted by P.F.Tytler, The Life of Sir Thomas Craig. Edinburgh. 1823. p. 350.

3. Diary of Sir Archibald Johnston of Warison. 1632-1639. (ed. G.M.Paul). S.H.S. Edinburgh, 1911. p. 258.

4. Grant, Advocates. p. 43.

5. Ibid. p. 17.



on 6th January, 1580.<sup>1</sup> During his illness, David McGill of Nisbet was appointed King's Advocate on 12th June of the following year and Crichton's successor on 27th of the same month.<sup>2</sup> After that date the appointment of one Advocate of the King remained the principle.<sup>3</sup> The Church followed this procedure and in future appointed a single Church's Advocate.

Although one or two appeared as advocates in cases involving the Assembly, sometimes in company with Craig,<sup>4</sup> it is certain that none of them was ever considered 'the Church's Advocate'.

The next Church's Advocate officially appointed by the General Assembly, as far as can be ascertained from the records, was Sir Archibald

1. Brunton and Haig, Senators. p. 177.

2. Ibid. p. 179.

3. Omond, Lord Advocates. vol. i. *passim*. and cf. Brunton and Haig, op. cit. p. 180.

4. E.g. Sir William Oliphant of Newton. Calderwood, History, vol. v. p. 767; vol. vi. pp. 375, 377, 450; Sir John Sharp of Houston. Ibid. vol. v. 767: Tytler, Life of Craig. pp. 151, 290, Laing, Knox. vol. ii. p. 337. Sir Thomas Hope of Craighall. Calderwood op. cit. vol. vi. pp. 377, 379, 450, 452-59. Thomas Gray. Ibid. vol. vi. pp. 377, 379, 450, 454, 459.

Johnston of Warison who was elected to that office in November, 1638,<sup>1</sup> a few days after his appointment as Clerk to the General Assembly.<sup>2</sup>

This is the first mention in official documents of the title 'the procurator of the Kirk' and it is from the time of Johnston of Warison that the Church departed from the original name of 'the Church's Advocate' and used the word 'Procurator'. The main reason for this was that Johnston was appointed Lord Advocate on 30th October, 1646 and held both offices for more than a decade<sup>3</sup> and there had to be quite different names for the two.<sup>4</sup>

The Assembly after the Revolution Settlement of 1690 probably knew nothing of the high and ancient origin of the office of 'the Church's Advocate' and perpetuated the name of 'Procurator of the Church,' although there may have been one or two aware of the past who were responsible for the first advocate who took up office after 1690 being

1. Diary of Johnston of Warison. p. 403.

2. Ibid. p. 401.

3. Grant, Advocates. p. 113.

4. Robert Baillie for example referred to him as 'the good Advocate' (i.e. Lord Advocate) in his correspondence. (Baillie, Letters. vol. iii. p. 53.)

appointed 'advocate in ordinary and procurator of the Church' by the General Assembly of 1706.' After this date, however, the Advocate was known as 'the Procurator of the Church'.




### The Solicitor.

James Maccartney was chosen to be the solicitor of the Church on 29th June, 1564.<sup>1</sup> As has already been shown, he or some other must have acted up until that time for the Assembly.<sup>2</sup>

On 26th December, 1567 he was succeeded by George Mackison.<sup>3</sup>

It was only after the appointment of Mackison that the solicitor received a salary which, like that of one of the procurators, was paid out of the Thirds of Benefices.<sup>4</sup> He continued as solicitor until the Assembly of May, 1586 'aggreit with the advice of the saids (King's) Commissioners, that James Mowat be Solicitor of the Kirk, if Mr. George Mackison and he be agreit.'<sup>5</sup> Under such pressure Mackison demitted in favour of Mowat. The main reason for such a change was the inefficiency of Mackison and so the Assembly was glad to see him go. This is made quite apparent in the words of the

1. B.U.K. p. 50.

2. Supra p. 

3. Calderwood, History, vol. ii. p. 399.

4. Thirds of Benefices. p. 297. He received £ 50 in 1568 and £ 100 thereafter.

5. B.U.K. p. 667.

charter granted by the King in the following year, who, 'understanding the great skaith and hinders that the Ministry has sustained this many years by want of a diligent solicitor to await and attend upon their affairs pusued and defended before the lords of Council and Session whereby they were compelled to await themselves the most part of the year whilk matter being lamented by the general Kirk and due trial made by them of the sufficiency of James Mowat, servitor to Mr. John Nicolson, a Commissary of Edinburgh, they desire him to be provided to the said office vacant by the demission of Mr. George Mackison,' confirmed the appointment.<sup>1</sup> This is the first reference to the confirmation of such an appointment by the Crown. Mowat received one hundred pounds per annum paid out of the Third of the Abbey of Fearn and the Priory of Beaully.<sup>2</sup> It may have been more than the inefficiency of Mackison which prompted the King to have another appointment made. It is probable that he was clearing the ground before the passing of the Annexation Act by the Parliament of

1. Quoted by Dr. C.A. Malcolm 'The Solicitor-General for Scotland' in Juridical Review. vol. liv. p. 68.

2. Malcolm, op. cit. p. 69.

1587.<sup>1</sup> Before Mowat's appointment there seems to be a suggestion that on occasions the solicitor of the Church acted on behalf of the Crown;<sup>2</sup> but when the King confirmed by charter in 1587 Mowat as solicitor for the Church the matter was clarified,<sup>3</sup> for in the same year he granted a charter to William Maccartney W.S. as 'one of the King's Clerks, Writers and special agent, solicitor and attender upon the writing of letters keeping diets before the Lords of Session, Secret Council or Exchequer, and in setting forward of all things concerning the King's casualties and office of treasury for life with a fee of £ 100 yearly'.<sup>4</sup> Mowat retained the office of solicitor until 21st March, 1601, when 'the Generall Assemblie receivit and admittit Mr Thomas Hope to be Solister for the Kirk in place of James Mowat; quho being personallie present, demittit the same in the Assemblies hands, after the said Thomas had givin his oath of fidelitie in the said office.'<sup>5</sup>

1. A.P.S. vol. iii. pp. 431-37.

2. Malcolm, op. cit. p. 68.

3. Ibid. pp. 68-9.

4. Reg. Sec. Sig., vol. lvi. f. 119. quoted by Malcolm. Ibid. p. 69.

5. B.U.K. p. 960.



There is little in the records about any of these men or the duties which devolved upon the solicitor. This is to be expected as most of the work would be of a routine nature and as the solicitor, with the procurators, was mainly concerned with actions in the civil courts and with the carrying out of the instructions of the Assembly, for example in the issue of writs in cases to be heard in that court.<sup>1</sup> The day to day work of the solicitor of the Church is not recorded.

1. Ibid. p. 309.

### The Comptroller.

John Nicolson, writer, clerk of the collectory of the Thirds of Benefices, was appointed Comptroller of the Church on 26th December, 1567 to keep 'the rentalls of the Thirds of Benefices, and Assumptions therof.'<sup>1</sup> The Assembly made this appointment on account of the attempted re-organisation of the collection of the Thirds of Benefices in that year.<sup>2</sup> This is shown by its action in March, 1569 when he, with others, 'were ordained to conveen .... and advise upon the matters reffered, be the Lords auditors of the Checker, to the Assembly: and to give their judgements therein, which with the doubts they shall find, they shall report to the Assembly'.<sup>3</sup> Nicolson was diligent in the interests of the Church. This is illustrated, for example, in the production, by him, of 'a roll of the Ministers that had wasted the patrimony of their benefices and made no residence at their kirk'.<sup>4</sup>

He was paid no salary for his work as Comptroller of the Church

1. B.U.K. p. 113.
2. Thirds of Benefices. pp. xxix-xxx.
3. B.U.K. p. 161.
4. Ibid. p. 336.

but, as clerk of the collectory, he received one chalder of meal, one chalder of bere and £ 100 out of the Thirds of Benefices.<sup>1</sup>

On account of the administrations of the Thirds of Benefices passing out of the control of the Church in 1572<sup>2</sup> it was never necessary to appoint a successor to Nicolson.

1. Thirds of Benefices. pp. 62, 67, 117, 132, 138, 170, 212, 297. It is doubtful if his appointment as Comptroller assisted him in any way in the recovery of his portion of the Thirds which had been paid to Alexander Durham (Ibid. p. 212 and cf. R.P.C. vol. i. pp. 495-6) and John Knox. (Thirds of Benefices. p. 212.)
2. B.U.K. pp. 232-4 and R.P.C. vol. ii. pp. 111-3.



### The Convening of the Assembly.

When the Assembly settled its method of summoning meetings, it was not influenced by the procedure of Parliament which was called, on a statutory warning of forty days, by 'precepts' issued out of Chancery under the quarter seal.<sup>1</sup>

In its practice the Assembly developed along lines already set by the Convention of Royal Burghs which were completely different from parliamentary procedure. The meetings of the Convention were either arranged by itself sometime beforehand or, when concerted action in the burghs' interest was deemed necessary, they were summoned at the discretion of certain of the larger burghs, or of the provost of the burgh which was to have been the next meeting place.<sup>2</sup> The leading part in calling meetings which had not been previously arranged by the Convention, was taken in Edinburgh.<sup>3</sup>

1. R.K. Hannay, 'General Council and Convention of Estates' in S.H.R. vol. xx. p. 122.
2. J.D.Mackie and G.S.Pryde, The Estate of Burgesses. St Andrews. 1923. p. 9 and Pagan, Convention of the Royal Burghs, p. 39.
3. Pagan, Ibid.

The Assembly, which, like the Convention, was 'a self-sufficing and distinct assembly, whose scope of business' was limited to certain affairs,<sup>1</sup> followed the same course as that pursued by the Convention in calling meetings.

From the first General Assembly, there were two ways, both similar to the custom of the Convention, in which a meeting of the Assembly could be convened. The normal practice was for the date of the next meeting to be fixed at the close of the Assembly and this continued throughout the period under consideration.<sup>2</sup> On occasions, when the Assembly thought that there might arise a situation when a pro re nata meeting was necessary, it gave power to one or more persons to call a meeting if it was thought essential.<sup>3</sup> Until his death John Knox, minister of Edinburgh, had the power to call an Assembly together.<sup>4</sup> This arrangement had been made from the beginning and it was confirmed by the Assembly on 28th June, 1565.<sup>5</sup> It is certain

1. Mackie and Pryde, op. cit.
2. B.U.K. *passim*
3. cf. Ibid. p. 664.
4. Ibid. p. 38-9 and cf. p. 64 and Petrie, History, pp. 241-2.
5. 'that he sould continue as befoir to advertise fra tyme to tyme as occasion salbe givin.' (B.U.K. p. 39.)

that he was not only appointed because he was the minister of Edinburgh but also on account of who he was. He held an unique position in the Church. To many, he was the embodiment of the reformation. This was acknowledged throughout the Church and the very high stipend which he received in comparison with all other parish ministers showed the national recognition of his status.<sup>1</sup> The power of calling the Assembly which had been given to him also demonstrated the prestige which he had because he was always at the centre of affairs. Owing to the defective state of the minutes of the Assembly, it is not possible to state which meetings, if any, were convened by Knox.

On the death of Knox the duty of calling a special meeting of the Assembly was still vested in those at Edinburgh but never again in a single person. In August, 1574, John Spottiswoode, superintendent of Lothian, James Lawson, minister of Edinburgh and David Lindsay, minister of Leith 'in cace of any Parliament to be haldin', were instructed to make 'lawfull premonitioun and advertisement to thair brether, to be present upon sick competent space befor as they sall

1. Thairds of Benefices. pp. xxxv, 54, 72, 128, 131, 141, 180, 191, 212 and 297.



think needfull'.<sup>1</sup>

At the close of the Assembly of 1576 the next meeting of the Assembly was 'appointit to be in Edinburgh the 24 of October nixt to come, in cace no parliament: and in cace of a Parliament, the Kirk ordaines the Ministers of Edinburgh to make intimatioun therof to the Bischops, Superintendents and Visitors of the countreyis, that the Kirk may be conveinit foure dayes befor the said Parliament, and that the Barrones and gentlemen be exhortit to be present with the Commissioners appointit in the Provincial Assemblies.'<sup>2</sup>

No Parliament met in 1576 and so the Assembly did not meet until 24th October as 'appointit'.

In April, 1582 the presbytery of Edinburgh was given authority, in consultation with the 'Kings Ministers', to take action should 'some necessar occasiune interveine' before the date fixed by the Assembly for its next meeting.<sup>3</sup> This action was taken in face of the intrigues of William Crichton S.J. and Edmund Hay S.J., who had arrived in February. Support was given to Crichton and Hay by the Duke of

1. B.U.K. p. 313.

2. Ibid. pp. 362-363.

3. Ibid. p. 570.

Lennox.<sup>1</sup> The Assembly was aware of the dangers and therefore made this arrangement in order that it could convene quickly if the situation worsened. In October of the same year a similar arrangement was made but the King's ministers are not mentioned.<sup>2</sup> This was decided at the same Assembly which had given its approval to the Ruthven Raid. It commended those involved and stated that they 'have done good and acceptable service to God, their naturall and bound duetie unto their soverane, and shewed their carefull affectioun to their countrie.'<sup>3</sup> All was not yet over as Lennox, at Dumbarton Castle, was planning a return to power.<sup>4</sup> The Assembly had to be ready to meet any eventuality. Lennox's efforts were unsuccessful and he withdrew to France on 20th

1. Thomas F. Knox, Letters and Memorials of Cardinal Allen. London, 1882. pp. xxiii et seq., 114 et seq.; Letters and State Papers relating to English Affairs, preserved principally in the Archives of Simancas. Elizabeth. 1580-86. (ed. M.A.S.Hume). London, 1896. vol. iii. pp. 256 et seq. and 438; W.Forbes-Leith, Narratives of Scottish Catholics under Mary Stuart and James VI. Edinburgh, 1885. pp. 181-2 and 'English Jesuits and English Intrigues, 1581-2' in Collected Essays and Reviews of Thomas Graves Law. (ed. P. Hume Brown) Edinburgh, 1904. pp. 217-243.

2. B.U.K. p. 606.

3. Calderwood, History, vol. iii. p. 678.

4. Ibid. p. 648.

December.<sup>1</sup> It should be noted that James was in secret communication with Lennox up until the time of his departure.<sup>2</sup> In 1591, the remit to the presbytery was somewhat different. 'The General Assemblie of the Kirk is appointit at Aberdein, the 17th day of August 1592, (but) in case ane Parliament interveine: in the quilk case the brethren being advertised therof be the Presbytrie of Edinburgh, sall hald thair Assemblie quher the Parliament salbe for the time, and conveyne two dayes befor the same'.<sup>3</sup>

The last mention of the presbytery of Edinburgh being involved in convening the Assembly appears in the records of the presbytery of 5th October, 1596 when, due to the danger of the Roman Catholic noblemen being restored, it called the commissioners of the General Assembly together, at the desire of their brethren in Fife. Although a letter was drawn up with the advice of representatives from various synods and a standing council or commission of the Church was formed which would convene a meeting of the General Assembly if thought necessary,<sup>4</sup> the king soon brought this to an end by acting through the Privy Council

1. Ibid. p 693.

2. Spanish State Papers. vol. iii. p. 438.

3. B.U.K. p. 785.

4. MS Minutes of the presbytery of Edinburgh quoted by McCrie, Melville. p. 182.



and discharged the commission as unlawful in itself 'and mair unlauchfullie execute be the saidis pretendit commissionairs; and ordanis letters to be direct chargeing the personis of the ministerie undirwrittin, ..... to depairt hame to thair severall flockis and congregationis within xxiii houris nixt'.<sup>1</sup>

The Black Acts of 1584 put an end to the normal procedure of one Assembly appointing the date of the next. It was impossible to find a precedent for action when the Church felt it possible to consider meeting again in General Assembly after the return to power of the banished lords who were admitted to the Privy Council on 7th March, 1585.<sup>2</sup>

James Melville records that about the end of November 'warning was maid, according to the ordour of the Kirk be the last Moderator, athort the countrey to the breithring, to convey in Generall Assemblie'.<sup>3</sup> He does not give the name of the moderator so that it is not known if it was the moderator of the Assembly of 1584, if one was elected, or Robert Pont who had been the moderator of the previous Assembly. It seems

1. R.P.C. vol. v. pp. 332-3.

2. Ibid. vol. iv. p. 33.

3. Melville, Diary. p. 226.

likely that it was Pont as he had prepared a document for submission to Parliament<sup>1</sup> which was agreed to by the Assembly when it moved from Dunfermline, its original meeting place, to Linlithgow where the Parliament was being held.<sup>2</sup> The Assembly appears to have disbanded without arranging the date of the next Assembly. This may have been due to the divisions in the Church which had been revealed at Linlithgow.<sup>3</sup> It should be noted that Melville did not return to Scotland until after the opening of the Assembly<sup>4</sup> and he may be inaccurate in his account of the exact procedure adopted to ~~the~~ call this Assembly. He is certainly in error when he states that the Assembly was called according to the order of the Church by the last moderator. If this did occur, it was the only occasion when a former moderator took the power to himself to call a meeting of the General Assembly.

The arrangements for the convening of the next Assembly were made

1. Calderwood, History. vol. iv. p. 455. The document is printed Ibid. vol. iv. pp. 450-7.
2. Ibid. vol. iv. p. 449 and A.P.S. vol. iii. p. 373.
3. Melville, Diary. p. 228-9.
4. Ibid. p. 227.

at a conference held on the initiative of the State between certain members of the Privy Council and some ministers who were not official representatives of the Church but had been chosen by the king.<sup>1</sup> This took place at Holyrood-house on 17th February, 1586.<sup>2</sup> In addition to other matters it was agreed that the Assembly should meet on 10th May in Edinburgh, 'or where his Majestie sall otherwixe appoint, and to be convocated by his Majestie's proclamatioun, and missives to the bishops and commissioners in the said Assembly, .... his Majestie, by advice of such of the number present as he sall adjoyne unto him, sall devise and sett down a good and solide order, for their convocating, and appointing of all other circumstances belonging therto, in time to come.'<sup>3</sup> The use of the parliamentary practice of summoning the bishops and similar persons individually and making no mention of the nobility is important.<sup>4</sup>

A proclamation was issued on 5th April summoning 'all and sindrie bischoppis, commissionaris of kirkis, and ministeris and uthiris quhatsumevir haveand interest' to attend the Assembly to meet in Edinburgh on 10th May. This was, due to the Black Acts which remained unrepealed,

1. B.U.K. p. 652.

2. Calderwood, History. vol. iv. p. 491.

3. Ibid. vol. iv. p. 493.

4. Rait. Parliaments of Scotland. pp. 178-9.



the only legal way in which the General Assembly could be called. The proclamation referred to this. It declared that the 'convening of the said Generall Assemblie sall nowayes be imputt as ony cryme or offence to the personis convening thairto', notwithstanding any laws, Act of Parliament or constitutions made to the contrary.<sup>1</sup> James at the second session of the Assembly did not lose the opportunity to emphasise the fact that he had the power to grant or refuse a request for the holding of an Assembly.<sup>2</sup>

The next Assembly of June, 1587 met in response to a royal proclamation.<sup>3</sup>

It is quite possible that when James commanded the Assembly to meet on 6th February, 1588, ostensibly on the grounds that he wished it to meet 'ane, for supressing of Jesuites and vther Papists quho are entrit in this realme ..... to subvert .... the religioun presentlie profest within the same; another, to provyde such meanes, that ... such dangerous practices may be avoydid and eschewit',<sup>4</sup> it was to create a precedent for the Assembly convening at a royal command apart from the temporary situation created by the Black Acts. This is the most likely

1. R.P.C. vol. iv. pp. 60-1.

2. B.U.K. p. 646.

3. R.P.C. vol. iv. p. 174.

4. B.U.K. p. 713.

explanation as the problem of Roman missionary priests was not new but had, in fact, been vexing the Assembly for some years and nothing had been done by the state. It is important to notice that the Assembly did meet on that day in response to the king's call and that Andrew Melville was the moderator.<sup>1</sup> The Assembly's thoughts at that moment were not fixed upon technicalities about its own constitution. During the past year or so the Babington Plot had been uncovered, fears about the secret plottings of the Papists were filling men's minds and the execution of Mary, Queen of Scots which had taken place a year before had worsened the international situation.<sup>2</sup> Since the death of Mary anything was likely to happen as she had promised her rights to the English crown to the King of Spain upon her death 'considering the great obstinacy of my sone in his heresy'.<sup>3</sup> The

1. Ibid. p. 703. This Assembly was not called by Andrew Melville on account of his being moderator of the previous Assembly as stated by McCrie, Melville. p. 135.
2. Mary Queen of Scots and the Babington Plot. (ed. J.H.Pollen) S.H.S. Edinburgh, 1922. pp. civ-cc.
3. State Papers. Elizabeth. vol. iii. p. 150. Mary wrote to Mendoza in 1586 'Considering the great obstinacy of my sone in his heresy, ... I have resolved that in case my sone should submit not before my death to the Catholic religion, I wil cede and make over, by will, to the king your master, my right to this (English) crown'. She goes on to state that King Philip is the most capable, in all respects, of re-establishing Roman Catholicism in England.

situation was critical. The country now awaited the sailing of the Spanish Armada.

There is no doubt that the General Assemblies were, and continued to be, in a dilemma concerning the problem of whether or not the king had the power to call an Assembly by proclamation or direct the Church to cause an Assembly to be convened. The king, himself, had no such difficulties. The passing of the Black Acts made the legal position quite clear. The Assembly by not meeting in its own right since 1584, except for the Linlithgow gathering, no doubt gave the impression to many observers that the Church had tacitly accepted that the king had the power to control the convening of General Assemblies. Even without the added problem of the Black Acts, it is obvious that there was a great deal of confusion in the mind of the Church regarding the problem as to whether or not the Assembly had the power to act independently. This may have been due to medieval ideas of sovereignty which were still in many men's minds<sup>1</sup> but it was certainly also due to the fact that the Church did not know what the

1. P.N. Riesenbergh, Inalienability of Sovereignty in Medieval Political Thought. New York, 1956.



General Assembly was.

If it was a council such as was outlined in the Scots Confession, taking James' reason for calling the Assembly of 1588 at its face value, then there might quite possibly be a place for the Crown to take the initiative in calling meetings, especially when the Church was in danger.<sup>1</sup> This was true to the teaching of the continental reformers.<sup>2</sup> Furthermore, such an arrangement would not have been a change from former practice, since there were many medieval precedents for the sovereign taking steps to call an ecclesiastical council or to ensure that such an assembly was called. This procedure can be shown in the emperor's convening of imperial church councils.<sup>3</sup> In England during the middle ages the king sometimes took the initiative in calling ecclesiastical assemblies.<sup>4</sup> This was also the case in Scotland<sup>5</sup> and furthermore, the Crown ensured that provincial councils

1. The Scots Confession. Article xx.
2. cf. e.g. Luther 'An den christlichen Adel deutscher Nation von des christlichen Standes Besserung. 1520'
3. Calvin, for example, was well aware of this. cf. Acts of the Council of Trent with the Antidote. 'On the Decree of the Second Session.' Tracts. vol. iii. pp. 57 et.seq.
4. Edward I, on 19th August, 1294 summoned the whole clergy of the realm to one assembly at Westminster to meet on 21st September, 1294. Stubbs, Select Charters. pp. 480-81.
5. The clergy and others were summoned to a Legatine Council which met at Perth in 1212 by the king's warrant. Statuta. p. xlii. n 1.

were called there in sixteenth century.<sup>1</sup> The church obeyed all such summonses.<sup>2</sup>

If, on the other hand, it was something like the Convention of Royal Burghs concerned with certain matters peculiar to itself, the king had a precedent from previous practice there to call an Assembly if he felt so disposed.<sup>3</sup> Such slogans as 'the Crown rights of the Redeemer'

1. An Act of Parliament of 12th June, 1535 decreed that 'the Archbishop of Sanctandrows (who was not present at that Parliament) be requirit be the Kingis Grace to set and halde the said day (1st March, 1536), the hale clergy beand lauchfullie warnit therto as efferis.' A.P.S. vol. ii. p. 342. At the end of 1558, Mary of Guise received a memorial from certain lords and barons demanding that the state of the church should be improved. The Regent published an edict on 9th February, 1559 which acceded to some of the demands of the lords and barons. The memorial was transmitted to the archbishops of St. Andrews and Glasgow with instructions to summon a provincial council. (Statuta vol. ii. pp. 142, 152; John Lesley, The History of Scotland from the death of King James I in the year 1436 to the year 1561. Bannatyne Club, Edinburgh, 1830. pp. 269-71).
2. Stubbs, op. cit. and Statuta. vol. i. pp. ccxlvii-ccl.
3. Records of the Convention of Royal Burghs of Scotland. vol. i. pp. vii and App. 520 and 521.

had not yet been heard. The Church was still confused about the exact structure of the Assembly and was prepared to co-operate with the king as much as possible. It was James VI who made it face problems which were, to a great extent, created by himself and which caused much of the hardening on both sides for the subsequent struggle for power.

The problem was apparently solved to everyone's satisfaction when in July, 1592, Parliament ratified and approved 'the generall Assemblies appoyntit be the said kirk and declairis that it salbe lauchfull to the kirk and ministrie euerilk yeir at the leist, and after pro re nata as occasioun and necessitie sall require To hald and keip generall assemblies Providing that the kingis Maiestie or his commissioner with thame to be appoyntit be his hienes be present at ilk generall assemblie befoir the dissolving thairof Nominat and appoynt tyme and place quhen and quhair the nixt generall assemblie salbe haldin and in caise nather his Maiestie nor his said commissioner beis present for the tyme in that toun quhair the said generall assemblie beis



haldin Than and in that caise IT salbe lesum to the said general assemblie be thame selffs To nominat and appoynt tyme and place quhair the nixt generall assemblie of the kirk salbe keipit and haldin as they haif bene in vse to do thir tymes bypast.<sup>1</sup> This was obviously an attempt at a compromise solution. James declared to the next Assembly, April, 1593, 'that in respect he cannot of honour sie the priveledge of his crowne hurt, therfor he will have regard to have the act of his last Parliament keipit concerning the conveyning of Generall Assemblies be his Majesties appointment; willing them heirfor, befor thair skailing, to direct two or thrie of thair number vnto him, to desyre him to appoint the day and place of their nixt conveyning.'<sup>2</sup> The Assembly answered that the foregoing Article by the king 'is aggried vnto, according to the tenour of the act of Parliament presentit with the saids Articles.'<sup>3</sup> The following Assembly confirmed the procedure laid down in the Act of Parliament.<sup>4</sup>

1. A.P.S. vol. iii. p. 541.

2. B.U.K. p. 805.

3. Ibid. p. 806.

4. Ibid. p. 845.

It was not long before the king's actions were different from the agreed procedure. He called an Assembly by missive which met on the first day of March, 1596.<sup>1</sup> The Church was uneasy about this meeting but the Assembly met and its legality, although questioned, was upheld by the following Assembly.<sup>2</sup> The Assembly's charity towards the king or its confused thinking about its own position is seen in the declaration of the Assembly stating that the Perth Assembly of 1596 was legal.

'Anent the lawfulness of the said Assemblie haldin at Perth: It is declairit be this present Assemblie, that one of the reasons moving the brethren to acknowledge the lawfulness of the said Assemblie, was found to have bein, that the Commissioners of the Kirk accordit with his Majestie theranent, as is expresslie sett doune in his Majesties letter'.<sup>3</sup>

The last entry concerning this matter in the sixteenth century appeared in March, 1598 when the 'brethren ordaines the nixt General Assembly to be haldin at Aberdein, the first Tuesday of July, 1599.'<sup>4</sup> There is no mention of the king or his Commissioner. This Assembly

1. Ibid. p. 889.

2. Ibid. p. 924.

3. Ibid.

4. Ibid. p. 948.

never took place because the king called the next General Assembly to meet in Montrose in March, 1600 by proclamation.<sup>1</sup> So James caused further confusion to appear when parliamentary procedure was used to call an Assembly by proclamation which was 'an indispensable formality in summoning a parliament'.<sup>2</sup> This situation, confused and disorganised, remained unchanged until later in the seventeenth century when an orderly system of convening the Assembly was instituted.

1. Calderwood, History, vol. vi. p. 1.

2. R.K.Hannay, op. cit. p. 113.



### Time of Meeting.

The first meeting of the General Assembly, which most probably met in the Tolbooth, Edinburgh, was so arranged in order that the reformers could ascertain the mind of the Church in Scotland and act on its behalf. The Assembly was adjourned to meet again along with the Convention of Estates which was summoned for 15th January, 1561, so that the Three Estates might be made aware of the views of the Church on certain matters. Although this did not take place, it shows that there was the idea in the minds of many that the Assembly should meet before or during or along with a parliament in order to inform it of what the Assembly desired to be done or to have its Acts confirmed by parliament.

Such a practice was not new. It had been customary from an early date in many countries for a meeting of the clergy to take place before the opening of parliament. For example, in England, many Convocations met before parliament in order to agree to the payment of a tax, or to prepare complaints or petitions to be placed before it. It is doubtful if the Scots would be consciously influenced by such pre-reformation meetings but it is apparent that it was the logical time

to meet in order that the government could be made aware of the Church's problems, difficulties and opinions. If they were influenced by anything it was more probably by the practice of the reformed churches on the continent. The attention of historians has already been drawn to the reformation in Denmark and how certain aspects of it affected Scotland.<sup>1</sup> It is worth while noticing that a similar arrangement was made by the church there at the outset of the reformation. A meeting of the clergy was decided upon by the 'preachers and ministers of God's Word from Zealand, Scaania, and Jutland' when they assembled in Copenhagen before the Rigsdag, or National Diet, which Christian III summoned to meet in October, 1536. They prepared an address to the King in which certain matters requiring reform were mentioned.<sup>2</sup> This is a more likely source of influence should it be necessary to require an explanation for the Assembly meeting at such an obviously convenient time.

1. G. Donaldson, 'The Example of Denmark' in S.H.R. vol. xxvii. pp. 57-64.

2. L.N.Helveg, Den Danske Kirkes Historie, vol. iii. p. 1024; and B.Kornerup, Reformationen i Danmark, p. ix. quoted by E.H.Dunkley, The Reformation in Denmark. London. 1948. p. 73.

With the power of the State being in the hands of the Crown, the Regent, the Privy Council and the Lords of the Articles rather than the Parliament, the pre-parliamentary meetings of the General Assembly were not so very important, except for example in 1567, and so the Assembly adopted the method of presenting 'Articles' to the State to be dealt with by the Privy Council which was more effective in bringing the Church's needs and demands before the State legislature than in any other way.

The tradition of what the reformers believed to be the ancient custom of the church was the greatest influence on the time and frequency of the meeting of General Assemblies. Bullinger claimed that councils had been held twice a year in ancient times and such a theory obviously impressed the Assembly.<sup>1</sup> When it wrote to the Regent Morton in March, 1574, it revealed this when it stated, 'it is also knowin vnto your Grace, that sen the time God blessed this countrey with the light of the Evangell, the haill Kirk maist godlie appointit, and the same be Act of Parliament authorized, that two godlie Assemblies of the haill General Kirk of this realme, sould be ever ilk yeir'.<sup>2</sup>

1. Henry Bullinger, Decades, (ed. T. Harding). Parker Society. 1849-52. vol. iv. p. 506.

2. B.U.K. p. 292.



Until factors other than the Church's ideas about its own constitution caused a departure from bi-annual Assemblies, this remained the guide.<sup>1</sup>

In early times, 'throughout Western Europe it had been the custom for kings to hold solemn courts at the great festivals of the Christian year: there they wore their crown and there they took counsel',<sup>2</sup> but this was gradually discontinued.

The use of the church calendar in fixing the dates of meetings of courts was the practice in medieval Scotland as elsewhere. The Sheriff courts had three meetings of the head court in the year, Christmas, Easter and Michaelmas which took place on the first Tuesday after Epiphany, the second Tuesday after Easter and the first Tuesday after Michaelmas.<sup>3</sup> It cannot be said when this started although in the cases of Fife and

1. cf. 'A table of General Assemblies of the Church, from 1560 to 1618' in Calderwood, History. vol. viii. pp. 305-311.
2. H.G. Richardson, 'The Origins of Parliament' in Transactions of the Royal Historical Society. Fourth Series. vol. xi. London, 1928. p. 152.
3. Records of the Sheriff Court of Aberdeenshire. (ed. D. Littlejohn). New Spalding Club. Aberdeen, 1904. vol. i. Table of Contents; Sheriff Court Book of Fife. (ed. W.C. Dickinson) S.H.S. Edinburgh, 1928. p. xv. and Registrum episcopatus Moraviensis. (ed. C. Innes) Bannatyne Club. Edinburgh, 1837. Nos. 164, 165, 179, and 180.

Inverness such a system can be traced back to the fourteenth century<sup>1</sup> and by the seventeenth century, meetings of the courts on these dates became the general practice.<sup>2</sup>

After the first/few meetings, the General Assembly, in common with other courts, decided to meet on an important day in the Christian year, Christmas and exactly six months thereafter. Except for a few meetings and no meeting on 25th June, 1568, the Assembly met on those days until 1569.<sup>3</sup> The dates were not consciously chosen because of any religious significance but were fixed as these two days were six months apart and were, no doubt, convenient for commissioners. However, it was still natural to choose dates according to the Christian year as had been common in all sections of life prior to 1560.

1. Sheriff Court Book of Fife. Ibid. and Reg. Epis. Moray. Ibid.
2. G. Mackenzie, Observations on the Acts of Parliament. Edinburgh, 1686. p. 138.
3. 'A table of General Assemblies' in op. cit. pp. 305-6.

Two years after the changes of 1567, the Assemblies, while continuing to meet twice a year, changed the dates of meetings quite frequently and there does not appear to have been any particular principle which guided them in their choice' even although an ecclesiastical calendar was prefixed to all the Books of Common Order issued during the sixteenth and well into the seventeenth century.<sup>2</sup>

1. 'A table of General Assemblies' in op. cit.

2. J.A. Lamb, 'The Calendar of the Book of Common Order. 1564-1644', in Records of the S.C.H.S. vol. xii. pp. 15-28.



## The Place of Meeting and Preparations for General Assemblies.

The Assembly was usually convened at Edinburgh. It met, until 1580, almost invariably in the Tolbooth, sometimes reference is made to the Nether Tolbooth and on other occasions to the Over Tolbooth;<sup>1</sup> there is also one Assembly recorded as meeting in the New Tolbooth.<sup>2</sup> The fact that in the early years of its life the Assembly met in the Tolbooth in the capital of Scotland associated as it was with the Three Estates and the Court of Session meant that the Assembly considered itself to be on the same level within the realm and as it was permitted

1. For descriptions of the Tolbooth of Edinburgh cf. P. Miller, 'The Origin and early History of the Old Tolbuith of Edinburgh' in the Proceedings of the Society of Antiquaries of Scotland. vol. xx. pp. 360-67; R. Miller, The Municipal Buildings of Edinburgh. Edinburgh, 1895; J.A. Fairley, 'The Old Tolbooth, with Extracts from the Original Records.' in the Book of the Old Edinburgh Club. vol. iv. pp. 75 et seq. and H.F. Kerr, 'The old Tolbooth of Edinburgh' in Ibid. vol. xiv. pp. 7-24. When reference is made to the Nether Tolbooth the Council Chamber is possibly indicated and when the minutes use Over Tolbooth, the room above the Council Chamber was the place of meeting.
2. B.U.K. p. 38. For an account of the New Tolbooth cf. R. Miller, op. cit. pp. 41-70.

to meet there shows that its claim to such a status was recognised. There is no basis for the growth of the legend that the first General Assembly met in the Magdalene Chapel.<sup>1</sup> The so-called tradition is of quite modern origin.<sup>2</sup> The Assembly only met there once, on 24th April, 1578, because the Tolbooth was not available due to the disturbed state of the country.<sup>3</sup>

From 1580, it was usual for the Assembly to meet in the 'New Kirk'. This church was formed out of the former nave of the collegiate church of St Giles which was the property of the town council of Edinburgh.<sup>4</sup> The

1. cf. W.Cowan's remarks in the Report of the Seventeenth Annual Meeting in The Book of the Old Edinburgh Club. vol. xiv. Appendix. p. 18.
2. Probably it originated after 1859 as there is no reference to the Chapel as the meeting place in J.Cunningham, The Church History of Scotland. Edinburgh. 1859. vol. i. p. 370 but there is in the second edition of 1882. p. 293. The Court of Session had recently met there (Extracts Burgh Rec. Edinburgh. vol. iii. p. 1.) but the Parliament had not. This also suggests that the Assembly met in the Tolbooth as it was more likely to follow parliamentary than Court of Session practice.
3. The Tolbooth at that time would be used for military purposes due to the watch which was instituted by the town council on 16th April. (Extracts Burgh Rec. Edinburgh. vol. iv. p. 72.)
4. For the subdivision of the church after 1560 cf. D.Wilson, Memorials of Edinburgh. (second edition). Edinburgh, 1891. vol. ii. p. 297.

congregation of the New Kirk is now the one which meets in the High Kirk of Edinburgh.

When the Assembly did not meet in Edinburgh, one of the Royal Burghs or episcopal Burghs was chosen as the place of meeting. This was done not only because Parliament met in such burghs, but because when the same procedure as that observed by the Convention of Royal Burghs was followed, the practical arrangements which were made by the burgh for meetings of the Convention could be undertaken in the same way by the burgh where the Assembly met.

The preparations for the meeting of the Assembly were the same as those made by the town council for the Convention. The Convention of Royal Burghs only paid the salaries of its servants and the cost of legal proceedings.<sup>1</sup> As a result, the burgh where the Convention met provided accommodation, fuel and lighting for the meeting.<sup>2</sup> The Assembly's commitments were similar and it had no source of income from which to

1. Pagan, Convention of Royal Burghs. p. 67.

2. Extracts Burgh Rec. Edinburgh. vol. iv. pp. 123-4, 226 and 227. On occasions the burgh also provided wine and bread for the Commissioners. Ibid. vol. ii. p. 317 and vol. iv. p. 260.



provide a place of meeting and to meet the overhead expenses involved. The practice of the Convention was adopted and the General Assembly received the same hospitality from the Royal Burgh where it met.<sup>1</sup>

This relieved the Church of much work and expenditure involved in the organising of the routine matters connected with meetings of Assemblies. It learned this economy from the Convention and, as a result, not only did it save money which would have otherwise have been spent on the many small expenditures which would automatically have been incurred but it did not employ staff for such work either. It should be noted that even the bea<sup>w/</sup>bles which waited upon the Assembly were also provided and paid by the burgh.<sup>2</sup>

Such town councils continued to give the Church practical support in providing facilities for Assemblies. At Aberdeen, the town council had the Kirk of the Greyfriars specially seated and pre-

1. Ibid. vol. iii. p. 175. When the council 'Ordanis Richard Trolhope and the gild offeris to wait on the keipin of the tolbuith dure induring the tyme of the said assemblie and conventioun and that the dene of gild se thame furneist in candill fire and vther necessaris vpoun the tounnis expensissis.'

2. Ibid.

pared for the General Assembly of 1640.<sup>1</sup> At first, this may well have been done by town councils in a voluntary capacity but, later, when Assemblies almost always met in Edinburgh, it was regarded as the duty of the town council of Edinburgh,<sup>2</sup> with the possible assistance of the state to provide a meeting place for the General Assemblies of the Church.<sup>3</sup>

There were Assembly dinners and suppers but whether they were organised and paid for officially or privately is not ascertainable as no details are known about them other than the fact that they took place.<sup>4</sup> It is possible that the Town Council provided some of them although there are no entries in the Burgh Accounts now extant. Town Councils are known to

1. J. Spalding, The history of the troubles and memorable transactions in Scotland and England, from MDCXXIV to MDCXLV. (ed. J. Skene) Bannatyne and Maitland Clubs. Edinburgh, 1828. vol.1. p. 310.
2. Act of Assembly, 1811. ult.
3. Acts of Assembly, 1828.6, 1834.ult., 1839.7, Comm. 1839. Nov. 20. and 1840.3.
4. 'I haiff sein him (i.e. Andrew Melville) oft find fault with lang denners and suppers in General Assemblies; and when uthers wer thairat, he wald abstein, and be about the penning of things (wherin he excellit, bathe in langage and form of letter.)' Melville, Diary. p. 75.

have entertained important churchmen who visited their towns.'

1. e.g. The town council entertained the superintendent, John Willock, when he visited the burgh of Ayr in 1560. (Ayr Burgh Accounts 1534-1624. (ed. G.S. Pryde). S.H.S. Edinburgh. 1937. p. 30.)



### Commissions of the General Assemblies.

The Commissions of the General Assemblies which were constituted during the sixteenth century were different in composition and purpose from the Commissions of Assemblies which now meet each year in October and March. The reason for this was that there had been no commission of parliament since March, 1543.<sup>1</sup> The Assembly, as it initially met bi-annually and was guided in this matter by the practice of the state, never set up such Commissions until the end of the seventeenth century.

The Commissions which were appointed were empowered to conduct discussions, to make representations or to present 'Articles' on behalf of the Assembly concerning matters which were of interest both to the Church and State. These Commissions met with certain representatives of the State or prepared statements, on behalf of the Assembly for submission to government officials, the Privy Council or Three Estates.

1. This was 'the last instance of the appointment of a commission, possessed of full powers of Parliament, until the period of civil war in the seventeenth century.' (Rait, Parliaments of Scotland. p. 364).
- The Commissions of General Assemblies, of the type known today, are a post-revolution development in the constitution of the Church.

and were answerable to a subsequent Assembly.

It was only after the changes of 1567 that such Commissions were appointed. The first, formed on 26th December of that year, met with persons who had been nominated by the regent 'for sick affaires as pertaines to the Kirk and jurisdiction therof.'<sup>1</sup> Throughout the period under review such Commissions were appointed for such consultations, although the subjects discussed varied from time to time.<sup>2</sup>

On two occasions Commissions were set up to transact, in the name of the Assembly, specific judicial and administrative business delegated to them.<sup>3</sup> These seem to have been appointed because of lack of oversight which should have been exerted by synods. No such Commissions were appointed while the superintendents' courts were in existence as it was usual for the Assembly to remit all such matters to the appropriate court in the area where the matter required attention. After the constitution of presbyteries it was customary for cases to be remitted to a presbytery

1. B.U.K. p. 113.

2. Ibid. passim. cf. e.g. pp. 145, 150, 165, 173, 436-7, 460-1, 581, 798, 804, 814, 872 and 896.

3. Ibid. pp. 800-1, 848-9.

with powers to issue judgment. Because of this it is not surprising that there are only two Commissions of this sort appointed in the sixteenth century.



## The Synods.

The basic organisation of the medieval synod continued unchanged in the reformed Church in Scotland,<sup>1</sup> but its constituent membership was

1. Some information about the pre-reformation synods in Scotland can be obtained from the synodical statutes printed in Robertson, Statuta. passim. cf. also Dowden, Medieval Church in Scotland. p. 239. This can be supplemented from the practice of other countries which was almost the same. There is a large amount of literature on the subject. cf. the great collections. e.g. D. Wilkins, Concilia, J.F.Schannat and others, Concilia Germaniae. Cologne. 1759-90, C. Peterffy, Sacra Concilia Ecclesiae Romano-Catholicae in Regno Hungariae. Vienna, 1742, J.Sawicki, Concilia Poloniae, (in the course of publication) also A.W.Haddan and W.Stubbs, Councils and Ecclesiastical Documents. Oxford, 1869-73. S.Kroon, Det svenska prästmötet under medeltiden. Lund, 1948. and A.Artonne, 'Les statuts synodaux diocésains français, du XIIIe siècle au concile de Trente' in Revue d'histoire de l'Eglise de France, 1950. pp. 168-81. For an account of a synod cf. B. Jacqueline, 'Histoire des synodes du diocèse de Coutances antérieurs au concile de Trente' in Notices, mémoires et documents publiés par la Société d'archéologie et d'histoire naturelle du département de la Manche. vol. lx. fasc. 1.

changed because of the new theological insights of the reformation.

Only clergy had been present in the synod since the thirteenth century because it had become by then concerned almost solely with ecclesiastical legislation and there seemed to the church at that time no reason for the attendance of the laity to continue.<sup>1</sup> A return to primitive practice was made and elders or deacons were expected to attend. This was indicated in the Act of Assembly of December, 1562 when it was taken for granted that 'the minister with ane elder or deacon' of each parish church attended the synod 'to consult upon the comon affairs of there dioces'.<sup>2</sup>

The synods were dignified gatherings<sup>3</sup> which met twice a year, in April and October,<sup>4</sup> similar to the practice in the middle ages.<sup>5</sup> The

1. C.R.Cheney, English Synodalia of the Thirteenth Century. London. 1941. p. 33.

2. B.U.K. p. 29.

3. An account of a meeting of the synod of Hereford in 1519 is given in The Register of Charles Bothe, Bishop of Hereford (1516-35). (ed. by A.T.Bannister). Cantilupe Society. Hereford. 1921. p. 66.

4. B.U.K. p. 29.

5. Synods were usually held once each year in autumn but in some dioceses an additional synod was convened in the spring. Cheney. op.cit. p. 17.

attendance of members and the regularity of meetings must have improved from what it had been before 1560<sup>1</sup> as the synods seem to have worked well.

The bi-annual diocesan synods met on the initiative of the bishops or superintendent under the authority of the General Assembly. A list of synods with their presbyteries was approved by the Assembly of April, 1581<sup>2</sup> and the place of meeting for each synod laid down by the Assembly of May, 1586.<sup>3</sup> This court played a considerable part in the administration of the Church. The synod was the court of appeal from the kirk session and the General Assembly would not normally consider any case which had not first been heard by the synod nor could anyone ask for the opinion of the Assembly on any subject without first having referred the matter to the synod.<sup>4</sup> On certain occasions business which arose in the Assembly was remitted to the synod for action to be taken there.<sup>5</sup> It was also enacted that no minister, exhorter, or any other

1. cf. e.g. M.S.Harl. 4894 fol. 194 b etc. quoted by Owst, Preaching in Medieval England. p. 216-7.

2. B.U.K. p. 473.

3. Ibid. p. 649.

4. Ibid. pp. 191-2.

5. Ibid. p. 52.



person could 'trouble or molest ... the Generall Assemblie with sick  
thinks as superintendents may and aught decyde in their synodall conven-  
tiouns; and if any chance to doe heirafter in the contrair, their  
lettres sall be rejectit.'

The synod gradually grew less important within the organisation  
of the Church. This was the outcome of a series of actions taken by  
various Assemblies which began in 1573, when the Assembly made the  
permanent chairman answerable to the synod.<sup>2</sup> A few years later the  
presbytery gradually took over many of the powers and responsibilities  
of the synod.<sup>3</sup> By the end of the century the synod was of little  
importance.

1. Ibid. p. 131.

2. cf. p. 163 supra.

3. cf. p. 326 infra.

### The Presbyteries.

The exercise was deemed to be a thing 'most necessary for the Church of God' and its constitution and jurisdiction was laid down by the Book of Discipline.<sup>1</sup> For the first decade after the reformation the exercise was the local gathering of ministers and was in no way connected to the conciliar structure of the Church;<sup>2</sup> the representatives to the Assembly came from the synod. The bishops, superintendents and commissioners for kirks were expected to attend the exercise<sup>3</sup> and they were responsible to the General Assembly for seeing that the exercises met.<sup>4</sup>

The synod of Lothian, in Articles dated 8th October, 1572 addressed to the Assembly of March, 1573 made the first move to have the exercise brought into the organisation of the Church as a court under the synod. It asked that 'a copie of the Acts of the Generall Assemblie be

1. Book of Discipline. chapter IX (2). cf. B.U.K. pp. 57 and 270.
2. G.D. Henderson, 'The Exercise' in the Records of the S.C.H.S. vol. vii. pp. 13-29 gives an account of the exercise and of its gradual disappearance from the presbytery after its absorption into that court.
3. B.U.K. p. 321.
4. Ibid. pp. 331, 358, 366 and 406.

given to every Exercise' but the important request was 'That sick matters as falls out betuixt the Synodall Conventiouns and Generall Assemblies salbe headed and notit at every Exercise, 20 dayes befor the Generall Assemblie, that the brethren may be ripely advised with the samine, where through many things may be ended, which through laike of advisement suffer delay from Assembly to Assembly'. To this was added the suggestion that matters could be referred to the General Assembly by Kirk Sessions and that these should 'be pennit be the Superintendents Clerk, and faithfully reported to the Generall Assembly be the said Superintendent.'<sup>1</sup> These suggestions were agreed to by the Assembly.<sup>2</sup>

Although the Assembly of March, 1575 appointed a committee to report on 'the policy and jurisdiction of the Kirk',<sup>3</sup> and was guided in its deliberations by Andrew Melville who was appointed a member,<sup>4</sup> the first mention of a presbytery was not made until the Assembly of October, 1578 when the debate regarding the place of bishops in the Church, was under discussion. It was decided, among other things, that bishops were not

1. Ibid. p. 265.

2. Ibid. p. 266.

3. Ibid. p. 325.

4. Melville, Diary. p. 52.



to usurp the power of presbyteries' although officially presbyteries did not yet exist. In the Assembly of the following year, as a result of an overture from the Synod of Lothian asking that 'A general order to be taken, for erecting of Presbyteries in places quher publick Exercise is vsed, vnto the tyme the Policie of the Kirk be established be law, (i.e. by Act of Parliament)' the Assembly decided that 'The Exercise may be judgit a Presbyterie'.<sup>2</sup>

The presbyterial system grew gradually. The first definite action was taken at the Assembly of October, 1580 when a committee was appointed to 'devyse a Platt of Presbyteries and Constitutiouns therof as best appeirit be thair judgement, to be reportit be tham againe the nixt Generall Assemblie'.<sup>3</sup> It was stipulated that the proposals had to have the concurrence of Alexander Hay of Easter Kennet, the Lord Clerk Register who had been appointed a member of the Commission anent the jurisdiction of the Church in the previous year.<sup>4</sup> At the same Assembly authority was given 'to the brethren of the Exercise of Edinburgh' to take action

1. B.U.K. p. 425.

2. Ibid. p. 439.

3. Ibid. p. 469.

4. A.P.S. vol. iii. p. 138.

against Thomas Cranston, James Blackwood and Alexander Stevin, to pass sentence in the cases and report to the next General Assembly.<sup>1</sup> This is the first instance of the Exercise superceding the superintendent's court. As all the accused were ministers it may be that it was only considered possible for the Exercise to take action against such persons; although it is much more likely that, because Blackwood and Stevin had been already deposed from the ministry, the General Assembly in taking this action created a precedent which in effect put an end to the superintendent's court by giving authority to an Exercise to pass judgment upon ministers and non-ministers. Of course, from the moment the Exercise was given authority to have the oversight of the ministry within its bounds the superintendent or bishop was deprived of one of his main functions.

The committee appointed to 'devyse a Platt of Presbyteries' reported to the following Assembly with a draft scheme for the organisation of presbyteries in certain places and it was resolved that 'ane beginning be had of the Presbyteries' in those places 'to be examplatour to the rest that may be established heirafter'.<sup>2</sup> In order that the scheme should

1. B.U.K. p. 465.

2. Ibid. p. 482. The list of parishes in proposed presbyteries is given on pp. 482-87 and presbyteries within synods on pp. 481-2.

be put into operation immediately, two or three individuals were named for certain areas to see that the decision of the Assembly was carried out.<sup>1</sup>

From the time of the Assembly of 1578 enjoining the bishops not to usurp the power of the presbyteries,<sup>2</sup> these courts gradually took over the jurisdiction which had previously been exercised by the superintendents, bishops, commissioners for the visiting of kirks and their courts. In 1581, the presbyteries were directed to deal with presentations.<sup>3</sup>

Although in the following year the synods mentioned as having 'power to conveye so oft as occasion shall requyre, to advyse, intreat, conclude and make ordinances in such things as concernes the will of the Kirk, and thair charge in doctrine and discipline, with libertie to appoint tymes and places for that effect',<sup>4</sup> the synods gradually diminished in importance within the structure of the Church. This is made quite plain by the same Assembly which enacted 'That Presbyteries, or such as they will direct of thair awin number, have the same power in designatioun of manses and gleibs, and reparation of kirks, that the Bishops, Superintendents, or Visitours

1. Ibid. p. 487.

2. Ibid. p. 425.

3. Ibid. p. 514.

4. Ibid. p. 601.



had before'.<sup>1</sup> The Assembly passed an Act in 1586 to compel the bishops to come within the jurisdiction of the appropriate exercise and synod as well as the General Assembly which, the Assembly added, 'is ane futherance to the Kings Majesties obedience; since vtherwayes they appeir as exeimit out of his dominion'.<sup>2</sup> The word presbytery is not used in this connection but the older description 'exercise', this was on account of the fact that the presbytery was not yet recognised by the Crown or parliament. In spite of this, the 'power of Presbitries' was emphasised at this Assembly and the presbyteries were instructed to be diligent in the oversight of congregations and people within their bounds and to take action against 'naughtie and vngodlie persons' and to censure all kinds of offences which are listed in great detail.<sup>3</sup> Parish ministers were also instructed to bring to presbytery any matters which they could not decide for themselves.<sup>4</sup> While vacant charges were to be filled according to the 'advice of the Commissioners of the Countries and Presbyteries'.<sup>5</sup>

1. Ibid.

2. Ibid. p. 661.

3. Ibid. pp. 665-6.

4. Ibid. p. 666.

5. Ibid. p. 668.

By this date, at least, the bishop and his court were no longer of any great importance in the constitution of the Church as it is more than likely that the Assembly was legislating in these matters after most of the organisation had been worked out on a local level in certain areas.

At the next Assembly, the presbyteries were given the power to absolve penitents<sup>1</sup> which had, up until that time, been reserved to the superintendent or bishop and his court, and they were empowered to deprive ministers in 1589.<sup>2</sup> There was thus no further change necessary to alter presbyteries to comply with the Act of Parliament of 1592 which permitted them.<sup>3</sup>

It was only after the passing of this Act of Parliament that presbyteries were authorised to send commissioners to the General Assembly.

In October, 1581, in a communication from the synod of Lothian the Assembly had been made aware of the problems which were being experienced by the presbytery in maintaining the position of the exercise within

1. Ibid. p. 710.

2. Ibid. p. 725.

3. A.P.S. vol. iii. p. 542.

its structure.<sup>1</sup> The Assembly paid little attention to this<sup>2</sup> and it was allowed to disappear as the emphasis in the presbytery fell more and more on its administrative functions.

1. B. U. K. p. 535.

2. Ibid. p. 536.



## The Assembly and the Universities.

As has been said the universities in the Middle Ages 'were not technically corpora ecclesiastica'<sup>1</sup> and this remained the situation after the reformation in Scotland. Nevertheless the reformers were determined to ensure that the universities were brought into line with reformed thought and practice. Their insistence that they should be kept subject to the Church in all matters of faith was the direct result of their experience of the universities of Europe before the reformation. They had learned from the history of medieval theology how far astray the church could be led by the theological faculties of the universities and also how powerful they could become wielding great influence on the thought and practice of the church. They would have in mind particularly the position to which the university of Paris had risen, where the theological faculty "became 'the first School of the Church' - the theological arbiter of Europe".<sup>2</sup> "Again and again Paris led the way and Rome followed".<sup>3</sup> The other problem in the medieval university was the faculty of canon law which tended

1. G.D. Henderson, The Founding of Marschal College Aberdeen, Aberdeen, 1947. p. 45.

2. Rashdall, Medieval Universities. vol. i. p. 548.

3. Ibid. p. 541 and n.1. and pp. 550-554.

to produce litigating careerists whose "object was to get on in the world and attain high preferment in the Church".<sup>1</sup> With canon law swept away and theological pronouncements no longer in the hand of a few scholastics, but subject to the Word of God,<sup>2</sup> the whole people of God, meeting in Assembly, considered itself the only interpreter of the Bible and framer of doctrinal statements for the Church. It held the theological initiative from its inception and set itself to the task of reforming the three universities.

The attitude of the Church can be seen from the protestation which John Knox issued at St Andrews on 18th July, 1572 in which he stated, 'I protest that nather the pulpet of Sanct Androis, nather yit of any congregatioun within the Realme, be subject to

1. Ibid. p. 438.

2. Cf. e.g. Scots Confession, para. 3 of the Prolegomena. 'Protestand that gif onie man willl note in this our confessioun onie Artickle or sentence repugnand to Gods halie word, that it wald pleis him of his gentleness and for christian charities sake to admonish us of the same in writing; and we upon our honoures and fidelitie, be Gods grace do promise untò him satisfactioun fra the mouth of God, that is, fra his haly scriptures, or else reformation of that quhilk he sal prove to be amisse'.

the censure of the schooles, universitie, or facultie within the same; bot only that it be reserved to God, the Judge of all, and to the General Assemblie gatherit within the same realme, lauchfullie.<sup>1</sup> In a letter to the General Assembly a month later he wrote, 'Above all preserve the Kirk from the bondage of the Universities.'<sup>2</sup>

The Assembly had this matter from the beginning constantly in mind. The first positive enactment was made on 26th June, 1563 when it was "ordainit that the instructioun of youth be comittit to none within this realme, neither in universities nor without the samein, but to them that professe Chrysts true religioun now publicklye preached; and that sick as now occupie the places, not professing as said is, be removed fra the samein ..... "<sup>3</sup>

In spite of an 'Article' from the Assembly of July, 1567<sup>4</sup> which gave rise to the Act of Parliament of the same year,<sup>5</sup> further legislation became

1. Knox's Works, vol. vi. p. 630.

2. Ibid. p. 613.

3. B.U.K. pp 33-34.

4. Ibid. p. 108.

5. A.P.S. vol. iii. p. 24.



necessary. It was enacted, in 1587, that "No Masters of Colledges or Schooles shall receive in thair Colledges or Schooles to teach any students or scholars, being of maturitie of age, quho refuses to subscribe the true religioun presentlie establischt and profest, be the mercie of God, within this realme, or refuseing to participat the Sacraments, vnder the pain of the censures of the Kirk; and farther, befor any student be promovit to any degrie in the Vniversitie, that they sal toties quoties, as they sall be promovit, subscribe de novo, vtherwayes thair promotioun to be stayit, under the paines forsaid; and that the Presbyteries be diligent to sie the executioun of this act, as they will ansuer to God".<sup>1</sup> This extention of control with the introduction of tests for students and those who presented themselves for graduation was done during a rather difficult time when the Church was seriously disturbed about the action of Roman missionary priests which was becoming more of a problem than it had ever been to the Church since the reformation. Thus it was not until 1587 that Roman Catholics were excluded completely from the Scottish universities and it was necessary for staff and students to be members of the national Church.

1. B.U.K. pp. 693-4.

The reformers desired more than mere conformity by the staff and students. They looked for a form of control being exerted over the universities and were prepared to have introduced a revised educational system as soon as practicable. The First Book of Discipline set out the pattern for such alteration as the General Assembly felt necessary in each place. St Andrews was considered first<sup>1</sup>, while Glasgow and Aberdeen<sup>2</sup> were to be organised somewhat differently. The detailed arrangements which were never actually implemented, show that at least a nucleus of the Assembly was well informed and eager to bring the universities into line with other reformed countries. Yet, while they had Geneva, Copenhagen and others in mind<sup>4</sup>, they kept intact in their own scheme much which was a legacy of Scotland's own past.

Obviously theological training was uppermost in the reformers' minds and the immediate problem which faced the reformers was the fact that there had been no regulated professional training for the priesthood

1. The Book of Discipline. Chap. VII. Sec. iii. 7 and Sec. iv. 8-14.
2. Ibid. Chap. VII. Sec. iv. 15-16.
3. Ibid. Chap. VII. Sec. iv. 17.
4. Men who had studied at these and the German reformed universities were always in the Assembly.

in the medieval church.<sup>1</sup> For the reformers all education was important but above all else they desired an educational system which would produce an educated ministry in sufficient numbers. In 1560, the Church was faced with a serious lack of trained ministers. 'We are not ignorant that the rarity of godly and learned men shall seem to some a just reason why that so strait and sharp examination should not be taken universally; for so it shall appear that the most part of the kirks shall have no Ministers at all. But let these men understand that the lack of able men shall not excuse us before God if, by our consent, unable men be placed over the flock of Christ Jesus; as also that, amongst the Gentiles, godly, learned men were as rare as they be now amongst us, when the Apostle gave the same rule to try and examine Ministers which we now follow .... For we cannot judge him a dispensator of God's mysteries that in no wise can break the bread of life to the fainting and hungry souls; neither judge we that the Sacraments can be rightly ministered by him, in whose mouth God has put no sermon of exhortation.'<sup>2</sup> Thus the policy of adhering to a high standard for

1. Rashdall, Medieval Universities, vol. iii. p. 451.

2. The Book of Discipline, Chap. IV. Sec. iii.



the ministry, in common with all the reformed churches, meant that the universities had to be reformed especially the faculties of theology. Despite all that was done the parishes in Scotland were never adequately supplied with ministers during the sixteenth century.'

There were three problems which had to be faced: the reform of the general administration of the universities and their general syllabi, the financial support necessary for students and the domination of all teaching, especially theology, by Aristotelianism.

No general scheme for the reformation of the universities was ever considered by the Assembly and the matter only seems to have been debated or action taken by it when problems arose which demanded immediate action. The universities never disputed the Assembly's right to exercise some form of control; it could take action when it thought necessary and these principles underlie the relations between the parties which existed for a very long time.

Two methods of reorganising the universities grew up. The Church always consisted that the 'godly magistrate' ought to be the executives

1. See. D. Laing's introduction to 'Register of Ministers and Readers in the Kirk of Scotland from the Book of the Assignation of Stipends. 1574.' in the Wodrow Miscellany. vol. i. pp. 326-28.
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of reform and it continually put pressure upon the government to carry out in practice the Church's programme of reformation. The result was that Royal or parliamentary Commissions, the Regent or the King visited the universities and proceeded to bring about changes some of which were not what the Church desired and, in fact, were against its interests. On occasions the state was slow to act, this resulted in the appointment of Commissions set up by the Assembly to deal with specific problems. The university authorities responded but it was only towards the end of the century that the situation became reasonably satisfactory under the influence of Andrew Melville who was the man who gave 'Scottish education its first real chance to come up to date and to absorb the benefits of the Renaissance'.

## The University of St Andrews

'The first and principal university' was under the influence of the reformers for some years before the Assembly first met, but in spite of this the University was not in a completely satisfactory condition in 1560 from the Church's point of view. The ante-reformation life of the university had been broken up. Although the majority of the staff took the side of reform, including the rector of the university and the staff of the college of St Leonard,<sup>1</sup> there were notable adherents to the church of Rome. John Black, O.P.<sup>2</sup> and Richard Marshall, O.P.<sup>3</sup> both of St Mary's College, with William Cranston,

1. John Douglas, rector of the university and provost of St Mary's and John Duncanson, principal of St Leonard's conformed. John Duncanson demitted office in 1566 and was succeeded by George Buchanan.
2. He was S.T.Lic., second master in St Mary's College and confessor to Mary Queen of Scots. He was well read in theology (Innes Review. vol. ix. p. 76). For an account of him cf. Knox, Works. vol. ii pp. 592-5.)
3. Some details of him will be found in McCrie, Melville. p. 454.



provost of St Salvator's,<sup>1</sup> and some of the staff of that college,<sup>2</sup> remained firm against the reformers.

The first visitation of the University of St Andrews took place in 1563. The commission, consisting of the Earl of Moray, Henry Sinclair, President of the College of Justice, James McGill, the Queen's Advocate, George Buchanan, John Winram, prior of Portmoak and superintendent of Fife and Strathearn, and John Erskine of Dun, superintendent of Angus and Mearns, was set up by Parliament as a direct result of a

1. He, and probably other teachers of the university who did not conform, left Scotland sometime after 12th October, 1561, as on that date the Queen asked Queen Elizabeth for letters of safe conduct for him and others to travel through England to France. (Calendar of State Papers. Scotland. (ed. Thorpe), vol. i. p. 175.) He was expected to return to St Andrews in the autumn of 1562 (Register of St Andrews Kirk Session. pp. 169-70) but he did not do so as he died before the end of September of that year. (Knox, Works. vol. vi. p. 144.)
2. Simon Simson, S.T.D., one of Cranston's colleagues, left Scotland before him as Simson was examining theological students at the Sorbonne on 15th April, 1561. (Paris Archives Nationales. MM. 249. f. 124v. quoted by J. Durkan, 'The Cultural Background in Sixteenth-Century Scotland' in Innes Review. vol. x. p. 424) He was later principal of the College Dupplessis. (John Hamilton, Ad Amplissimum Senatum. Paris. 1586. quoted by Durkan, Ibid.)

petition addressed to the Queen and the Lords of the Articles which drew attention to the state of the University. They were to enquire into the revenues of the Colleges and to consider how and with what salaries 'men of cunning and understanding might be established in these and other colleges and to offer their opinion and advice with respect to the mode of instruction which might appear to them most advantageous'. A report was to be submitted to the next parliament.<sup>1</sup> There is no record of this report ever having been made and the only one now extant is the report drawn up by George Buchanan - 'Mr George Buchanans Opinion anent the Reformation of the Universitie of St Andros'<sup>2</sup>. This is somewhat similar to the scheme for the University which was laid down in the first Book of Discipline. It is very difficult to discover if this visitation had any effect on the administration of the Colleges.

Eleven years later, the Regent, the Earl of Morton visited the University with a Commission, some members of which had been on the original visitation committee. This Commission was also set up by

1. A.P.S. vol. ii. p. 544.

2. Bannatyne Club Miscellany. Edinburgh. 1836. vol. ii. pp. 87-100.

Parliament on its 'taking deliberatioun, upoun gude pruiif had, of sum abuse and negligence enterit in the estait and ordering of the said Universitie, and of the necessitie of reformatioun requirit in the same.'<sup>1</sup> The purpose of this Commission's work was to ensure that the foundations were observed and that the staff was competent.<sup>2</sup> No great reforms were envisaged or carried out.

Little appears to have been achieved about which the General Assembly was concerned and it continued to consider what ought to be done.

During the June meeting of the Assembly in 1578, it was engaged in the drafting of an 'order to be tane for visitation of Colledges, Schooles and Hospitals; and the said articles, with other articles, to be given in be the brethren,' for submission to the King, were passed to David Fergusone, Andrew Hay and the Commissioners of Kyle, Carrick and Cunninghame to look over and correct.<sup>3</sup> This resulted in the Act of Parliament passed in July, 1578 which appointed a separate commission to

1. Evidence .... taken and received by the commissioners .... for visiting the universities of Scotland. London, 1837. vol. iii. pp. 187 et seq.

2. Ibid.

3. B.U.K. p. 415.



visit each of the universities to 'vesy and considder the fundatiouns and erectionis of the vniuersiteis and collegis within this realme with full power to thame To reform sic thingis as soundis to superstitioun ydolatrie and papistrie and to displace sic as ar vnqualefiit and vnmeit to discharge there office in the saidis vniuersiteis and to plant sic qualefiit and worthie personis' as teachers. The commission for St Andrews was composed of the archbishops of St Andrews and Glasgow, the bishop of Aberdeen, Robert, earl of Lennox, Robert, earl of Buchan, Andrew Melville and Peter Young. This commission was instructed to convene and begin its work at St Andrews on 1st November and to report to the King and Privy Council before 1st January, 1579.'

The commission commenced its work but difficulties were encountered and the Assembly was compelled to raise the matter again on 14th July in Articles presented to the King; 'The Assembly craveth of his Hienes, that becaus it is thought meet the University of Sanct Andrews be reformed, That his Hienes wald cause and compell the Provests and Masters of the Colledges of the Vniuersitie of Sanct Androes to produce and exhibite the erectiouns and foundations of the Colledgis within the said Vniuersitie, to be con-

sidderit be his Hienes and sick as his Grace sall appoint; also that the saids foundations may be sichtit, and reformation made theranent, as effeirs.'

Action was taken quickly and at a Convention of Estates, which met at Stirling Castle on 8th August, an Order was made enforcing the Act of Parliament and enlarging the State Commission which had been set up the year before. Among those added to the Commission was Thomas Smeaton, minister of Paisley, and later Principal of the University of Glasgow, who had been Moderator at the previous Assembly. This Commission or 'ony sex, five or foure of theme,' was given full power 'to visie and considder the saidis foundationis and erectionis, reforme sic thingis as soundis to superstitioun, ydolitrie, and papistrie, displace sic as ar unqualifiit and unmeit to discharge thair offices in the saidis Universiteis, and to plant sic qualifiit and worthie personis thairintill as they sall find gude and sufficient for education of the youth, to redres the forme of studyis and teicheing be fewar or ma professouris, to joyne or devide the Faculteis, to annex

everie Facultie to sic collegis as salbe fund maist propir, and  
 generalie to establische sic ordour in the said Universitie as sall  
 maist tend to the glorie of God, proffeit of the commoun welth, and  
 gude upbringing of the youth in sciences neidfull for continweing of  
 the trew religioun to all posteriteis.'

By November, 1579 'The New Foundation and Erection of the Three  
 Colleges in the University of St Andrews' was completed and ratified  
 by Crown and Parliament.<sup>2</sup> The only important changes envisaged in the  
 'New Foundation' was that the College of St Mary was to have an increase  
 in staff and a new method of appointing the professors in that College  
 was instituted.

This 'new Foundation' has, until recently, been considered to  
 have been the work of George Buchanan but there can be little doubt that  
 the main figure behind it was Andrew Melville as maintained by Cant.<sup>3</sup>  
 This claim is strengthened when his work in connection with the Nova  
 Erectio of the University of Glasgow is considered.<sup>4</sup> Such experience

1. R.P.C. vol. iii. p. 200.

2. A.P.S. vol. iii. pp. 178-82.

3. R.G. Cant. The University of St Andrews. Edinburgh, 1946. p. 48.

4. See p. 348. *infra*.



was of great assistance to him when the future of the University of St Andrews was being planned. 'Its primary concern was with Melville's great project for an "anti-seminary" of Protestant Theology to offset the Jesuit seminaries of the Counter-Reformation.'<sup>1</sup> In other faculty arrangements it followed the proposals of the Morton Commission rather more closely than those of 1563. St Mary's was organised as a faculty of reformed theology while in St Leonard's and St Salvator's the same Art subjects were to be taught with the latter having a larger syllabus because of its greater endowment.<sup>2</sup>

During the year 1580, a paper was drawn up entitled 'Headis of the Acte of Reformation, and of the Foundation nocht kepit'<sup>3</sup> which suggests that there were still failures within the administration or some who were too exact in the plans for the reformation of the Colleges.

In 1588, a State visitation was arranged by the Privy Council in

1. Cant, op. cit. p. 48.

2. A.P.S. vol. iii. pp. 178-82 and R.K.Hannay, The Statutes of the Faculty of Arts and Faculty of Theology at the Period of the Reformation. St Andrews. 1910.

3. U.C. Evidence. vol. iii. p. 191.

April' and revealed that there were still matters requiring attention. The two serious problems were the lack of money and the state of the buildings at St Salvator's.<sup>2</sup> The condition of the buildings was greatly improved by the end of the century but this was due to the work of the Provost of the College and not to anything which was done by the Commission.<sup>3</sup>

No further action was taken in the Assembly or by the government until a royal visitation took place in 1597.<sup>4</sup> This, although convened to some extent with reform in mind, was mainly inspired by the King's desire to follow up his successes of the previous year against Andrew Melville. Melville was deprived of the Rectorship on the grounds that he had been inefficient in governing the university and that his conduct of the University's affairs had not conformed to the reform of 1579.<sup>5</sup> As he was the originator of that reformation and raised the status of

1. R.P.C. vol. iv. pp. 266-67.

2. U.C. Evidence. vol. iii. p. 196.

3. Macfarlane's Genealogical Collections concerning Families in Scotland (ed. J.T. Clark) S.H.S. Edinburgh, 1899, vol. ii. p. 190 and College Papers SC4, xvi (8th August, 1599) quoted by Cant, St Salvators. p. 203.

4. U.C. Evidence. vol. iii. p. 198.

5. Ibid.

the University to become 'one of the foremost schools of Protestant theology in Europe',<sup>1</sup> such accusations could not have been well founded.

At the same time, certain alterations were made to the University's constitution. The Rector was made an annual appointment and no one could be re-elected until an interval of three years had elapsed.<sup>2</sup> The greatest and most serious alteration, which was made by the sole authority of James VI, was the establishment of a University Council in whose hands lay the whole administration of the University.<sup>3</sup>

The last visitation during the period under review, conducted again by the King in person, took place in 1599.<sup>4</sup> This was very important as the University Council was altered and enlarged.<sup>5</sup> The Earl of Montrose succeeded John Lindsay, Lord Menmure, who had died on 3rd September the previous year,<sup>6</sup> as Chancellor.<sup>7</sup> George Geldstanes, minister of St Andrews

1. R.G. Cant, The University of St Andrews. Edinburgh, 1946. p. 55.

2. U.C. Evidence, vol. iii. p. 198.

3. Ibid.

4. Ibid. vol. iii. p. 199.

5. Ibid.

6. Books of Sederunt quoted by Brunton and Haig, Senators of the College of Justice. p. 179.

7. U.C. Evidence. vol. iii. p. 199.



and later Archbishop of St Andrews was appointed Vice-Chancellor<sup>1</sup> and George Young, the King's Servitor<sup>2</sup> and Secretary to the Privy Council,<sup>3</sup> who had been 'conservator of the privileges' since before 1588,<sup>4</sup> continued to act in that capacity.<sup>5</sup> Through this Council, with the Chancellor as praeses, the King controlled all that took place within the University.<sup>6</sup>

Thus, the University of St Andrews, by the end of the century, was completely under the domination of the Crown with the influence of the General Assembly almost non-existent. If there was any, it was undoubtedly extinguished by the removal of Andrew Melville in 1606, in spite of the Archbishop of St Andrews becoming Chancellor of the University in that year.<sup>7</sup>

1. Ibid.

2. R.P.C. vol. iii. p. 610.

3. Ibid. vol. iv. p. 823.

4. Ibid. vol. iv. p. 266. He probably succeeded William Skene.

5. U.C. Evidence. vol. iii. p. 199.

6. Cant, op. cit. p. 54.

7. 'He was obviously a man of considerable shrewdness and business ability, but quite devoid of any spiritual qualities, and his relations with the Crown an unabashed toady and selfseeker.' Ibid. p. 57.

## The University of Glasgow.

The majority of those connected with the university of Glasgow joined the reformed Church in 1560. This was in large measure due to the influence of the principal, John Davidson, who had been won over to the reformed position in 1559.<sup>1</sup> The university was in a very bad state at that time. Queen Mary, who visited Glasgow in July, 1563, in order to help the situation granted to the University some properties and rents which had previously been in the possession of the Church.<sup>2</sup> A few years later, Andrew Hay, who was the Commissioner for the visitation of kirks in Clydesdale as well as the Rector of the University and parson of Renfrew, made approaches to the town council to assist the University financially. Five years before, the burgh had obtained gift of a proportion of all the friars' houses and revenues including the endowments for masses in Scotland which had

1. cf. the relevant portion of a letter from Giovanni Ferreri to James Beaton, archbishop of Glasgow, quoted by J. Durkan, 'Sudden Conversion of John Davidson' in Innes Review. vol. x. pp. 438-9.
2. Munimenta alme universitatis Glasguensis. (ed. C. Innes). Maitland Club. Glasgow. 1854. vol. i. p. 67.

been divided between the Royal Burghs.<sup>1</sup> As a result of Hay's work the Provost and Magistrates conveyed their gift to the University in 1572.<sup>2</sup>

The General Assembly appears to have had little interest in this University except as shown in the plan for it which appeared in the First Book of Discipline<sup>3</sup> and in the sending of Andrew Melville to Glasgow in August, 1574 in preference to St Andrews.<sup>4</sup>

Even although the Assembly appears to have lacked interest in this university, it was this action of the Assembly in sending Melville to Glasgow which resulted in the greatest reform of the century in a Scottish university being brought about by the Nova Erectio of 1577.<sup>5</sup> This Royal Charter was undoubtedly the work of Melville and shows the influence which his old Parisian master, Peter Ramus, had exerted on him

1. Ibid. vol. i. p. 71.

2. Ibid. vol. i. pp. 84-5.

3. V (8).

4. The Autobiography and Diary of Mr James Melville (ed R.Pitcairn)

Wodrow Society, Edinburgh, 1842. p. 47.

5. Munimenta. vol. i. pp. 103 et seq.



by his teaching in general<sup>1</sup> and more particularly by the ideas which eventually appeared in his Prooemium Reformandae Parisiensis Academiae.<sup>2</sup>

Behind this reform stood George Buchanan who was a witness to the charter<sup>3</sup> and who had shown 'singular favour'.<sup>4</sup> His experience of the visitations of St Andrews must have been of assistance at the time but his suggestions for reform there had little influence on the Nova Erectio. The other important person in connection with this reform was the Regent Morton who was interested in such matters during his Regency.<sup>5</sup> He granted additional funds to the University<sup>6</sup> and in view of his apparent

1. cf. Charles Waddington-Kastus, De P. Rami vita, scriptis, philosophia etc. Paris, 1848 and more especially Charles Waddington-Kastus, Ramus, Ses Ecrits, et Ses Opinions, Paris, 1855 and F.P. Graves, Peter Ramus and the Educational Reformation of the 16th Century. New York, 1912.

Quite a number of his works were published in England from 1574 onwards.

An edition of his Dialecticae was printed by the heirs of Andrew Hart at Edinburgh in 1637. (Aldis. List No. 891).

2. In Scholae in Liberales Artes, Basel, 1578. c. 1116.
3. Munimenta. vol. i. p. 112.
4. Ibid. vol. i. p. 123.
5. Supra. p. 338.
6. Munimenta. vol. i. p. 105.

concern for education it can be assumed that this grant was more than just an automatic concession to a persistent demand. Nevertheless, the General Assembly's pressure on the Regent for an improvement in the financial position of the universities made two years prior to the Nova Erectio and which made special reference to Glasgow 'because it is new erectit'<sup>1</sup> must also have had some influence on the arrangements which were eventually made in the Royal Charter.

There are few matters mentioned in this document which are significant for the present study. The one was the assumption that the Crown was the ultimate patron and specific reference was made to the King as having the right to present to the office of Principal. The other was that students were to confess their faith annually in terms of the Scots Confession. These two points reflect the reformers' principles to which reference has already been made.

Although, in response to a request from the General Assembly of June 1579<sup>2</sup>, a parliamentary commission was appointed to visit all universities<sup>3</sup>, there was no government visitation of the University of Glasgow during the sixteenth century.

1. B.U.K. p. 339.

2. Ibid. p. 415.

3. A.P.S. vol. iii. p. 98.

## The University of Aberdeen.

The teachers in the university of Aberdeen, the main centre of Thomism and the teaching of canon law in the years before the reform of the Church in Scotland, remained true to the Roman Church.

The first attempt to win them over to the reformed Church was made in January, 1561 when Alexander Anderson, the principal, John Leslie, official of Aberdeen and canonist, Patrick Myrton and James Strathkinnes were cited to appear before 'a general Convention of the whole Nobility' which met in the Tolbooth of Edinburgh for a discussion on the Lord's Supper, but 'nothing was concludit'.<sup>2</sup> They appear to have spent some time in ward before being allowed to return to Aberdeen on condition that they did not preach.<sup>3</sup>

The Assembly did not consider the matter further until 1568 after the position of the university of Aberdeen had been raised on several

1. Knox, History. vol. 1. pp. 352-4.

2. The history of Scotland, from the death of King James I., in the year MCCCCXXXVI., to the year MDLXI. by John Lesley, Bishop of Ross. (ed. by T. Thomson). Bannatyne Club. Edinburgh, 1830. p. 293.

3. Ibid.



occasions by Adam Herriot, minister of Aberdeen.<sup>1</sup> On 8th July, 1568, in accordance with the reformed practice, the Assembly asked the Regent Moray to carry out the reform of that university.<sup>2</sup> He agreed to do this and gave instructions that a commission should be set up 'for reformation of the colledge of Aberdein, and for the placeing of godlie and qualified persons masters therin.'<sup>3</sup> The matter remained in abeyance until the regent, amid the military expeditions in the north arrived at Aberdeen and convened a meeting of the Privy Council with the express purpose of ensuring that the staff of the university conformed to the faith and practice of the reformed Church or of deposing them, as he had promised to do about a year earlier.

The Privy Council met on 30th June, 1569.<sup>4</sup> Alexander Anderson, Andrew Galloway, Andrew Anderson and Duncan Nory were called before the Council. They appeared and were asked to subscribe to the Confession of

1. Collections upon the lives of the Reformers and most eminent Ministers of the Church of Scotland. by the Rev. Robert Wodrow. (ed. by W.J. Duncan) Maitland Club. Glasgow, 1834. vol. 1. Life of John Erskine of Dun. p.22.
2. B.U.K. pp. 127-8.
3. Ibid. p. 129.
4. R.P.C. vol. 1. p. 675.

Faith. On their refusing 'to joyne the trew Kirk of God, according to the said Confessioun of the Fayth', the Regent, with the advice of the Privy Council, deprived them 'of all instructioun of the yowth within this realme, and of all ..... place, and titill, within the said College; and ordered them 'to remove, devoid and red thame selffis, thair servandis, and propir gudis belonging to thame selffis, furth of the said College; and deliver the samyn College, with all ..... justlie belanging, to Thomas Menzeis of Petfoddellis Provost of Abirdene, or ony uther honest man, to direct be him for ressait of the samyn.' An inventory was then to be made so that everything would be preserved 'quhill utheris qualifiit personis of sound doctrine and sufficient literature may be palaceit in the same college.'/

John Erskine of Dun as 'Commissioner within the bounds of the Shirefdome of Aberdein and Bamf' convened a meeting of the synod on the same day. Only Alexander Anderson and Andrew Anderson appeared before the synod. It pronounced sentence as the ecclesiastical court in the same terms and the sentence was ordained 'to be published and intimated

to the saids persons, and to the congregation of New and Old Aberdein, publickly the nixt Sunday.<sup>1</sup>

There was an attempt made by the Assembly of June, 1578, to have a state visitation of the universities arranged but although a commission was appointed by the Parliament of 1578<sup>2</sup> nothing appears to have been done.

The Parliament of 1581 recorded the need of 'Reformatioun of the college of Abirdene'.<sup>3</sup> In the following year a commission of Church and State representatives was set up under the convenorship of George, fifth Earl Marischal for the visitation of Aberdeen university.<sup>4</sup> This commission drew up a new order which the Assembly of April, 1583, learned was in the hands of the principal.<sup>5</sup> This 'new erection' was referred to a committee to consider and report to the next Assembly<sup>6</sup> but it did not do the work remitted to it.<sup>7</sup> A new committee was therefore appointed at the

1. B.U.K. pp. 141-4.

2. A.P.S. vol. iii. p. 98.

3. Ibid. vol. iii. p. 214.

4. B.U.K. pp. 593-4. For the names of the State representatives cf.

Ibid. p. 624.

5. Ibid. p. 614.

6. Ibid. p. 624.

7. Ibid. pp. 627, 629.



following Assembly which reported later at the same Assembly and the 'new erection' was approved.<sup>1</sup> Although it was approved this 'Nova Erectio' never materialised.<sup>2</sup> There was an Assembly visitation commission appointed in 1593<sup>3</sup> but there is no record of any action being taken by it.

At the same Assembly approval was given to 'ane new foundation of ane Collidge to be erected in Aberdeine be the Erle of Marischell'.<sup>4</sup> The Assembly as well as the Earl Marischal seemed to have resigned itself to the fact the the 'Nova Erectio' could never be and supported this new venture which was in keeping with Melville's view on education. As has been said, 'it is natural that the experience of seeing year upon year pass without sign of progress in the matter should be regarded as supplying the reason why in impatience or even exasperation the Earl should have become instrumental in the establishment of a new College where the ideals for which he stood might find expression.'<sup>5</sup>

1. Ibid. pp. 629, 638.

2. cf. the remarks of G.D.Henderson in The Founding of Marischal College Aberdeen. p. 16.

3. B.U.K. p. 811.

4. Ibid. p. 802.

5. Henderson, The Founding of Marischal College Aberdeen. p. 15.

Before passing from this short consideration of the universities, it should be observed that the greatest problem in university education, as far as the reformers were concerned, was the influence of Aristotle which had been the dominant factor for three centuries upon all thought and study.<sup>1</sup> As Gilson has said the Middle Ages are personified 'by the Pope, the Emperor and Aristotle'.<sup>2</sup> It was, however, the case that by 'the end of the fifteenth century, Aristotelianism itself was in turn reaching the term of its course. It was going in circles.'<sup>3</sup>

The errors which such a philosophy produced upon theology had been exposed by a correct biblical understanding of faith when Martin Luther lectured on the Epistle to the Romans at Wittenberg in 1515.<sup>4</sup> This attack

1. e.g. at universities in Italy on oath never to contradict Aristotle was administered. P. Mounier, Le quattrocento. Paris, 1908. vol. ii. p. 76.
2. E. Gilson, Dante the Philosopher. London, 1952. p. 146.
3. E. Gilson, History of Christian Philosophy in the Middle Ages. London. 1955. p. 540.
4. H. von Finken, Vorlesung über den Römerbrief. Strassburg, 1908; F.W. Schmidt, 'Der Gottesgedanke in Luthers Römerbriefvorlesung' in Theologische Studien und Kritiken, Lutherana. vol. iii. pp. 117 et seq. A. Jundt, Le Développement de la Pensée Religieuse de Luther jusqu'en 1517. Paris, 1906, H. Strohl, L'Epanouissement de la Pensée Religieuse de Luther de 1515 à 1520, Strassburg, 1924 and H. Strohl, L'Evolution religieuse de Luther jusqu'en 1515. Strassburg, 1922.

upon Aristotelialism was maintained and strengthened by subsequent reformed theological study.<sup>1</sup> The Bible became 'the irrefutable authority replacing both the Church and Aristotle'.<sup>2</sup> The new outlook also had an important effect upon education itself.<sup>3</sup>

The basic theory behind all the radical reforms suggested was the freeing of the Scottish universities from the influence of Aristotle. At first the traditional teaching remained and 'the Reformation left the curriculum in arts still medieval in character'.<sup>4</sup> James Melville, writing of his education at St Andrews, which commenced in the autumn of 1571, reveals this quite definitely. He 'enterit in the course of Philosophie, under the regenterie of the said Mr Wilyeam (Collace), wha haid the extima-

1. An den christlichen Adel deutscher Nation von des christlichen Standes Besserung. para. 25. in Luther, Werke. Kritische Gesamtausgabe. Weimar. 1881. vol. vi. pp. 381-439; F. Nitsch, Luther und Aristotle. 1883 and W. Link, 'Das Ringen Luthers um die Freiheit der Theologie von der Philosophie' in Forschungen zur Geschichte und Lehre des Protestantismus, 1940. vol. ix. part. iii.
2. A. Dakin, Calvinism. London. 1940. p. 186.
3. F.P.Graves, Peter Ramus and the Educational Reformation of the 16th Century. New York. 1912.
4. H. Rashdall, Medieval Universities. vol. ii. p. 310-1.



tion of the maist solide and lernit in Aristotle's Philosophie. And first hard under him Cassander His Rhetorik; ..... Then he gaiff us a compend of his awin of Philosophi and the partes thair of; of Dialectik, of Definition, of Division, of Enunciation, and of a Syllogisme Enthymen, and Induction, etc; ... We enterit in the Organ of Aristotle's Logics that year, and lernit til the Demonstrations.'

Even after the reforms of Andrew Melville at St Andrews, Aristotle continued to be studied with emphasis on the study of his works in Greek. 'Bot within a yeir or twa, Mr Andro (Melville), be his delling in publict and privat with everie an of tham, prevalit sa that they fell to the Langages, studeit thair Artes for the right use, and perusit Aristotle in his awin langage; sa that certatim et serio, the becam bathe philosophers and theologes, and acknawlagit a wouderfull transportation out of darknes unto light. Bot, indeid, this was nocht done without mikle feghting and fascherie, and the authoritie of the Generall Assemblie interponit, in end.'

The very danger which the Church was attempting to avoid was thus remaining, not in the teacher's mind nor in the General Assembly's pressure

1. Melville, Diary. pp. 24-5.

2. Ibid. p. 124.

on students to learn Greek, but, among the students and those ignorant of the snares of Aristotelianism who assumed that when they had studied Aristotle they 'became both philosophers and theologians.' The fact that theological students continued in the medieval tradition of studying arts and then theology made it imperative that the universities should be freed from the influence of Aristotle.

The Assembly was quite well aware of the situation and, in October, 1583, appointed a committee 'Against the reading of Aristotle in the schools' consisting of Thomas Smeaton, principal of the University of Glasgow, Andrew Melville, who held the same office at St Andrews, James Lawson, minister of Edinburgh, Peter Blackburn, minister of Aberdeen, Nicol Dalgleish, minister of the West Kirk of Edinburgh, James Martin, principal of St Salvator's College, and Robert Wilkie, regent in St Leonard's College.<sup>1</sup> The committee, with the exception of Lawson, was composed entirely of men who had experience of university teaching. Blackburn and Dalgleish had previously been regents in the universities of Glasgow and St Andrews respectively.<sup>2</sup> The Assembly stated

1. B.U.K. p. 638.

2. Scott, Fasti. vol. vi. p. 36 and vol. i. pp. 99-100.

quite clearly that the reason for the setting up of the committee was that 'there be manie things consteained in his (Aristotle's) doctrine, directly impugning the grounds of religioun, directione is given to their brethren ..... to draw furth and collect as farr as their memorie in such shortnes of time may serve, such propositiones as they find erroneious, and report them the morne to the full Assemblie.'

On the following day the report was given in to the Assembly, the committee stated that 'many things are wrytin directlie impugning the grounds of religioun, and speciallie in the philosophie of Aristotle, oft tymes the youth being curious and of insolent spirits, drinkes in erroneious and damnable opiniouns, and founding them vpon the bruckle authoritie of profane wryters, mantaines thair godles and profane opinions obstinately in disputatioun and vtherwayes, to the great slander of the Word of God, and offence of the simple and vnlearnit.' The Assembly then enacted that 'the masters, regents, and teachers of schooles, in reiding of profane wryters, sall vigilantlie take heid, if ther be any thing alledgit or wrytin in them against the grounds of heids of religioun; and, in teaching therof, to marke and note the places, confute and evict the errours,



and admonish the youth to eschew the same, as erroneous and false; and, namely, in teaching of philosophie, to note the propositions following, as erroneous, false, and against the Religion, and condemn it be the common vote of the haill Kirk.'<sup>1</sup> There followed twenty propositions which were condemned 'as erroneous, false and against the Religion' and 'if any beis found to doe in the contrair heirof, the censures of the Kirk to proceed against them: And likewise, that Masters, Regents, and Teachers, Auditours, or vthers, shall not assert or defend any of the saids propositions already condemned be the Kirk, or vthers that shall happen to be condemnit be them heirafter, philosophice, probabiliter, or vtherways, vnder the paine of the same censures of the Kirk.'<sup>2</sup>

The matter was not taken up again and no further reports or discussions took place in the Assembly during the remainder of the century. The political situation which affected the Assembly was becoming more involved and in the last decade there was little opportunity for the

1. B.U.K. p. 640.

2. Ibid. pp. 640-1 and cf. for a short commentary on the whole question, A.F.Scott Pearson, Church and State: Political Aspects of Sixteenth Century Protestantism. Cambridge. 1928. pp. 148-50.

Church to do very much in this and many other spheres.

Andrew Melville, in his own person, was the main source of solid reformed learning during this time. The very important place of Melville in the attack on Aristotle cannot be over emphasised in any consideration of reformed theological study in sixteenth century Scotland. His early training under Peter Ramus, who had always been on the attack against the moribund Aristotelian tradition within the University of Paris, had also shown him the great defects which such philosophy brought to an educational system.<sup>1</sup> Melville was a very succesful teacher. The universities of Glasgow and St Andrews remained fairly sound in their teaching and the worst features of Aristotle's influence, seen in

1. Melville was so impressed by Ramus that, for example he went to Lausanne in the spring of 1570 to listen to a course of lectures given by Ramus who had been denied the right to deliver them in Geneva by Beza. Melville returned to Geneva in September, in company with Gilbert Moncreiff who later became physician to James VI. (Charles Borgeaud, 'Cartwright and Melville at the University of Geneva 1569-1574' in American Historical Review. New York, 1900. vol. v. p. 288).

continental and especially Dutch Calvinism,<sup>1</sup> were avoided. It should not be overlooked that although the extreme Confession of Faith was approved by the General Assembly of 1616,<sup>2</sup> it was never really adopted by the Church. The attitude of John Cameron to the outcome of the Synod of Dort<sup>3</sup> is more significant and it is even more important when it is remembered that he entered the University of Glasgow some time after Melville's departure.<sup>4</sup> It was not without reason that Aberdeen went a different way. 'To Forbes and his colleagues at Aberdeen the Church was a continual sacramental and doctrinal fellowship: ..... They regarded themselves on most points as inheriting not direct from St Augustine, still less from Calvin, but

1. cf. H. Leube, Calvinismus und Luthertum im Zeitalter der Orthodoxie. Leipzig. 1928.
2. Calderwood, History. vol. vii. pp. 233-242. The main reason for its being passed was to further the King's plan to effect a union between the Church in Scotland and the more Calvinist Church in England.
3. R. Wodrow, Collections upon the lives of the Reformers and most eminent Ministers of the Church of Scotland. (ed. W.J.Duncan). Maitland Club. Glasgow. 1848. vol. ii. part ii. pp. 151-2.
4. He entered the College in 1595. Munimenta. vol. iii. p. 62.



from St Thomas Aquinas.' The seventeenth century intellectual condition of the universities still owed something to the influence which had been at work long before. Aberdeen had been more orthodox and probably more Thomist and realist in outlook than the other universities.<sup>2</sup> In St Andrews, for example, nominalist teaching had been given by many of the important teachers since its foundation<sup>3</sup> and the reformation won support in certain quarters there from an early date.

1. E.G.Selwyn, Introduction to The First Book of the Irenicum of John Forbes of Corse. Cambridge. 1923. p. 23.
2. cf. J.C.Barry, 'William Hay of Aberdeen, a Sixteenth Century Scottish Theologian and Canonist.' in The Innes Review. vol. ii. pp. 82-99. Hay although orthodox in theology was influenced by nominalist writers. (Ibid. passim.)
3. D. Shaw, 'Laurence of Lindores' in Records of the S.C.H.S. vol. xii. pp. 47-62.

## Schools, Masters and Scholars.

To the reformers education was of great importance.<sup>1</sup> They outlined their plans for the education of children in the First Book of Discipline. This bears the imprint of the influence of Calvin and what John Knox had written in his Brief Exhortation to England for the Speedie Imbrasing of Christs Gospel ..... which was written from Geneva on 12th January, 1559. 'Now, last, ..... for the preservation of religion, it is most expedient, That Schools be universally erected in all cities and chief townes, the oversight wherof to be committed to the magistrates and godly learned men of the said cities and townes; that of the youth godly instructed amongst them, a seade may be reserved and continued, for the profet of Christes Church in all ages.'<sup>2</sup>

There was, however, a basic change in the way in which the supervision of the schools was to be carried out when the policy of the Church was drawn up. The authority lay not in the town

1. For an account of the continental reformers' interest in education,

cf. E. Mulhaupt, Reformatoren als Erzieher. Neukirchen. 1956.

2. Knox, Works, vol. v. p. 520.

councils but within the courts of the Church and, when delegated, in the hands of one or more of their members. It was laid down 'that every several church have a Schoolmaster appointed, such a one as is able, at least to teach Grammar and the Latin tongue, if the town be of any reputation' and 'further, we think it expedient that in every notable town, and especially in the town of the Superintendent, be erected a College, in which the Arts, at least Logic and Rhetoric, together with the Tongues, be read by sufficient Masters, for whom honest stipends must be appointed: as also provision for those that be poor, and be not able by themselves, nor by their friends, to be sustained at letter, especially such as come from landward.'<sup>2</sup> This was the pattern of universal education envisaged and actively promoted by the General Assembly. It was a revolutionary idea. The medieval church had never been interested in such a system of education.<sup>3</sup> This can be seen at

1. The Book of Discipline. V. (5).

2. Ibid.

3. For accounts of medieval education in Scotland. Cf. D.E. Easson, 'The Medieval Church in Scotland and Education' in the Records of the S.C.H.S. vol. vi. pp. 13-26, and John Durkan 'Education in the Century of the Reformation' in Innes Review. vol. x. pp. 67-90.



the Scottish Provincial Council of 1549 which 'was not concerned with providing the opportunity of universal education but sought to create an educated priesthood.'<sup>1</sup> 'The fact is that medieval education could not be universal nor was it ever intended to be so.'<sup>2</sup>

The secular authorities felt that they too had a responsibility for the curriculum, for example, in December, 1575, the Privy Council took steps to set up a committee to ensure that 'within this realme, onelie ane forme of grammar be techeit in all the grammar scuillis thairof.'<sup>3</sup> This was symptomatic of the confused state of the country which was groping after a system which was desired by the best elements in Church and State.

The supervision of the schools had to be undertaken and 'for this purpose must discreet, learned, and grave men be appointed to visit all schools for the trial of their exercise, profit, and continuance: to wit, the Ministers and Elders, with the best learned in every town, shall every quarter take examination how the youth has profited.'<sup>4</sup> In short, the

1. Easson, op. cit. p. 24.

2. Ibid.

3. R.P.C. vol. ii. p. 478.

4. Book of Discipline. V (5)

management of the schools was, according to the First Book of Discipline, in the hands primarily of the local Kirk Session, and no one could teach who did not profess the true religion.<sup>1</sup>

The support of poor scholars was an important aspect of the reformers' educational programme. This was medieval in origin as the word 'bursar'<sup>2</sup> indicates, but an entirely new system was evolved by the allocation of the small benefices without cure as sources of income for such scholars at grammar school or university. Such assignments were repeatedly enacted by the General Assembly and requests made to the state with varying success.<sup>3</sup> The Privy Council was aware of the problems and attempted to take some action.<sup>4</sup> The forms to be used in connection with bursaries was drawn up by the Assembly in August, 1571.

(1) The forme of a letter direct to the Maister of the Grammar

Scole, in fauour of a Bursar Student in Grammer.<sup>5</sup>

(ii) The answer of the Maister of the Grammar Scole.<sup>6</sup>

1. B.U.K. p. 33.

2. Cf. Rashdall, Medieval Universities. vol. iii. pp. 407 nl. and 409.

3. B.U.K. pp. 17, 34, 253, and 279.

4. R.P.C. vol. i. p. 202.

5. B.U.K. p. 228-9.

6. Ibid. p. 229.

(iii) The gift and prouisioun vpoun the certificat of the Maister  
of the Grammar Scole.<sup>1</sup>

The provision of bursaries continued to be an Assembly matter and, no doubt, the Church was moved to do a great deal due to the moral and social problems caused by the ordo vagorum during the middle ages which was, to a large extent, composed of poor scholars.<sup>2</sup>

The schoolmaster, although not given a high status within the organisation of the medieval church was usually in Orders, though not necessarily holy Orders.<sup>3</sup> In the reformed church this medieval concept of the teacher being within an order was continued, especially in the churches which followed Calvin.<sup>4</sup> Like many other matters, the place of the teacher within the organisation of the Church in Scotland was never properly worked out. Only certain matters were considered by the Assembly and there is little in its enactments

1. Ibid. p. 229-30.

2. Cf. Helen Waddell, The Wandering Scholars, London, 1934.  
pp. 161-194.

3. A.F. Leach, The Schools of Medieval England, London, 1915, passim.

4. The new ecclesiastical constitution in Geneva 1541-2. (ii) S'ensuyt du second ordre, que nous avons nommé de docteurs. Kidd, Documents.  
pp. 594-5.



or those of Parliament concerning schoolmasters.

The Assembly ensured by enactment that all teachers were under the strict control of the local superintendent or commissioner reserving to them the right of appeal.<sup>1</sup> The superintendent or commissioner was empowered 'to place' or 'to plant' schoolmasters.<sup>2</sup> None was to be permitted to teach 'but such as salbe tryed be the superintendents or visitors of the church, found sound and abill in doctrine and admitted be them to ther charges'.<sup>3</sup> This was later confirmed by the Privy Council.<sup>4</sup> It was not just a pious resolution, it was enforced.<sup>5</sup>

1. B. U. K. p. 44.

2. Ibid. pp. 34 and 311.

3. Ibid. p. 60.

4. R.P.C. vol. i. p. 535.

5. In 1570, the town council of Peebles appointed a teacher of the town bairns 'by admission of the Kirk,' (Peebles Burgh Records)

Six years later the town council of Haddington gave an undertaking only to appoint a schoolmaster whose life, conversation and doctrine were 'tryit be the Kirk and conform to the order' and unsuspected of any kind of idolatry. (Haddington Burgh Records.) Quoted by J. Grant, History of the Burgh and Parish Schools of Scotland, Dondon and Glasgow, 1876, vol. i. Burgh Schools. p. 85.

No basic change from the practice of the pre-reformation church was involved regarding the appointment of schoolmasters. For example, in 1418, the schoolmaster of Aberdeen was presented by the provost and community. Then the Chancellor of Aberdeen, the inducting officer, testified, that the master was of good character, honest in conversation, learned in literature and science and a graduate in Arts and admitted him.<sup>1</sup> The chancellor was responsible for the schools with the diocese.<sup>2</sup> Exceptions to this practice were the one or two monastic schools where the appointment and oversight were in the hands of the abbot and chapter.<sup>3</sup>

1. Extracts from the Council Register of the Burgh of Aberdeen (ed. J. Stuart). Spalding Club. Aberdeen. 1844. vol. i. p. 5.
2. Dowden, Medieval Church. p. 61. Registrum Episcopatus Aberdonensis. (ed. C. Innes) Maitland and Spalding Clubs. Edinburgh. 1845. vol. ii. p. 45. Registrum Episcopatus Glasguensis. (ed. C. Innes). Bannatyne and Maitland Clubs, Edinburgh. 1843. vol. i. p. 170, vol. ii. p. 490, Registrum Episcopatus Moraviensis. (ed. C. Innes). Bannatyne Club, Edinburgh, 1837. pp. 57 and 270. In the diocese of St Andrews the archdeacon was responsible for schools as there was no chancellor. Statuta. p. 105.
3. Liber S. Thome de Aberbrothoc. (ed. C. Innes and P. Chalmers). Bannatyne Club. Edinburgh, 1856. vol. ii. p. 245.

Thus, when the office of chancellor of the cathedral was dropped in the Church, in 1560 and the abbeys were secularised, it was natural that the superintendent would control the burgh schools and the former monastic schools within his area of jurisdiction without, however, interfering with the patrons right of presentation if that was the existing practice.<sup>1</sup>

The superintendent was, over and above his duties in visiting schools<sup>2</sup> and examining staff,<sup>3</sup> empowered to 'suspend for a time or simpler deprive such as' he found 'unworthy or not apt for their office, wither it be for crimes committed or ignorance.'<sup>4</sup> This was, again, simply a continuation of former practice as the chancellor had not only the right to appoint schoolmasters but also had the power to depose them.<sup>5</sup> The power of deposition was used by the superintendent.<sup>6</sup> The General Assembly, naturally, reserved to itself the right to summon and depose schoolmasters

1. R.P.C. vol. ii. pp. 288-9.

2. B.U.K. pp. 239.

3. Ibid. p. 60.

4. Ibid. p. 311.

5. Reg. Epis. Glas. vol. ii. p. 490.

6. N. Winzet, Certane Tractatis for Reformation of Doctrine and Maneris in Sectland (ed. D. Laing) Maitland Club, Edinburgh, 1835. p. xii.



if it so decreed<sup>1</sup> and did, in fact, on occasions, assert this right.<sup>2</sup>

This procedure remained until October, 1581, when it was agreed by the Assembly that an Article should be proponed to the Parliament 'that the trial an admission of all masters of schooles, be now joynit to the presbyteries.'<sup>3</sup> Although this was agreed to<sup>4</sup> no Act of Parliament was passed. In June, 1595 a more specific Act was passed by the Assembly.<sup>5</sup> From the time of the setting up of presbyteries, the Assemblies usually used them to see that its injunctions regarding schools were carried out<sup>6</sup> and there is no doubt that wherever possible the presbyteries exercised their powers of examination and control over the schools

1. B.U.K. pp. 431, 432-3.

2. Ibid. pp. 44 and 432-3.

3. Ibid. p. 535.

4. Ibid. p. 537.

5. Ibid. p. 856.

6. Ibid.

and masters within their bounds.<sup>1</sup>

These Acts of Assembly were not always easy to enforce due to the three seats of authority - the patron, the overseer and the civil magistrate.

Two instances may be quoted. The first case concerns William Robertson, schoolmaster of Edinburgh. He was appointed schoolmaster by the abbot of Holyrood on 10th January, 1546.<sup>2</sup> In April, 1562, the town council initiated action against him in order to remove him from his post on the grounds that he was an obstinate papist.<sup>3</sup> It was also

1. A master of the grammar school of Ayr was appointed in 1595, after giving 'proof of his literature to the presbytery of Ayr.' (Burgh Records of Ayr quoted by Grant, op. cit. p. 224). In 1594, the Synod gave the presbytery of Jedburgh commission to try a schoolmaster of Dunbar whether he could teach a grammar school and it ordained him to compear on a certain day for his trial. (Records of the Presbytery of Haddington quoted by Grant, Ibid. p. 86). Two years later, the presbytery of Haddington ordained all the schoolmasters within its bounds to compear before them, to show how they instructed the young. (Ibid.)

2. Extracts Burgh Rec. Edinburgh. vol. iii. pp. 141-2.

3. Ibid. vol. iii. pp. 131-2.

alleged, in July, that he was not qualified to teach.<sup>1</sup> The case dragged on until October<sup>2</sup> when the town council found that he 'fand nane or litill eruditoun in grammer greik or latene, bot empty thairof, nocht onlie hes wranguslie and ignorantlie vsurpeit the office of schole maister within this burgh, ..... bot als, shewand his self ane inimie to Godis worde and contemnar thairof, hes refusit and refussis to frequent the sermonis of the trew and sincere doctrine of God and to communicat in the tabill of the suppour of our Lorde, .... quhairthrow he is vnhabill to brouke the said office of schole maister.'<sup>3</sup>

The town council, on 3rd October, 1562, 'with avis of thair assessouris, findis the said maister William to be vnhabill to exerce the office of scholemaister within the said burgh, and thairfore decernis him to remove him self fra exerceing of the said office and desist and ceis in all tymes cuming fra forder vseing and exerceing thairof, and dischargis him of all teiching and instructing of the youth within this

1. Ibid. vol. iii. p. 142.

2. Ibid. vol. iii. pp. 133, 135, 139, 141-5 and 150.

3. Ibid. vol. iii. p. 150.



burgh.<sup>1</sup>

Robertson did not let the matter rest there. On 27th February, 1564, the Queen discharged 'the said prouest and baillies of oure burgh, your officiaris and ilk ane of you, of all calling intrometting handling or removing of the said maister William fra his said office of maistership in ony tyme to cum efter the dait heirof, bot that ye thole him peciablle bruke and voyse the samyn during his lyfetye, conforme to his said prouisioun'.<sup>2</sup> In view of this on 29th November, 1564, he requested payment from the town council of the school mail and his salary for certain years past. The council, in view of their decree of 3rd October, 1562, found 'that thay ar nocht detbund to the said maister in ony fe or dewtie, scule male or pentioun, sen the dait of the said decreit'.<sup>3</sup> Robertson went again to the Queen, who, on 20th December, ordered the council to pay him arrears of salary and to continue payment 'in tymes cuming yeirlie during his prouisioun maid

1. Ibid.

2. Ibid. vol. iii. p. 196.

3. Ibid. vol. iii. p. 190.

to him of his said service ..... as ye will ansuer to ws vpoun your dewtie,  
 quhairthrow that we heir na forther complaynt heirupoun.'<sup>1</sup> The town  
 council could only capitulate and instructed the burgh treasurer 'to  
 mak gude and thankfull payment to the said maister William of his feis  
 of all termes begane restand awant him and siclike of the scole males.'<sup>2</sup>  
 These payments continued to be made to him<sup>3</sup> but the situation was not  
 satisfactory. There is no further mention made of the problem until  
 April, 1579 when Roberteson complained to the town council that he had  
 difficulty in retaining the services of 'the instructouris or doctouris  
 of the youthheid vnder his chairge'.<sup>4</sup> The financial problems facing  
 was given as the cause and the council decided that 'ilk bairn re-  
 sauing instructioun in the said Hie Scole, being born bairn within  
 this burgh, sall pay quarterlie to the maister thre schillingis and  
 to his doctour twa schillingis, and the said maister and doctouris to

1. Ibid. vol. iii. p. 196.

2. Ibid.

3. Ibid. vol. iii. pp. 215 and 227.

4. Ibid. vol. iv. pp. 104-5.

take of ilk landwart bairn his aduantage'. It is significant that in this context, it was further enacted 'that na maner of scole maisteris in ony time heirefter be permitted to instruct or lern ony youthheid within this burgh, except they be first admitted by the provest, baillies, and counsall thairto, efter dew examination and tryell tane of thair qualificatioun be the avysce of the ministeris of this burgh.'<sup>1</sup> It is only from this date therefore that the town council was able to control the new staff employed by Robertson. It would appear that he acceded to this in view of the new financial arrangements.

Problems, however, remained. Robertson, by virtue of his exclusive right to have a school and by royal confirmation of this right given in October, 1579, succeeded in having the schools within the burgh of the Canongate closed. The town council of the Canongate with the support of the minister and kirk session appealed to the King to confirm their right to a burgh school which they had had 'not onlie sen the Reformation of Religioun, bot also in tyme of papistrie

1. Ibid.



and past memorie of man.'<sup>1</sup> The Privy Council heard the case but the Lords found 'thameselffis not to be judges competent to the said mater, and thairfoir remittis the samin to be decydit befoir the judges competent thair to as accordis.'<sup>2</sup> Who the competent judges were was not indicated.

The matter seems to have rested there and it was not until 3rd April, 1584 that Roberton renounced 'his rycht, title, and kyndnes to the said office, swa that the guid town may provyde ane vther sufficient habill and qualefeit persoun in his rowme' and the town council of Edinburgh granted to him 'ane yeirlie pensioun of twa hundreth merks, to be payet to him quarterlie, furth of thair commoun guid.'<sup>3</sup> The town council was prepared for this demission. He was immediately succeeded by Hercules Rollock,<sup>4</sup> a Master of Arts of the University of St Andrews.<sup>5</sup> His pension was paid to him until his death<sup>6</sup>

1. R.P.C. vol. iii. pp. 305-6.

2. Ibid.

3. Edinburgh Burgh Records. vol. iv. p. 330.

4. Ibid. vol. iv. p. 346.

5. Early Records of the University of St Andrews. p. 162. For some details of Hercules Rollock cf. McCrie, Melville. pp. 381-2.

6. Extracts Burgh Rec. Edinburgh, vol. iv. p. 342.

which occurred before 17th April, 1588.<sup>1</sup>

The other case which illustrates the difficulties which faced the Assembly concerns John Henrysoun or Hendersoun. He was master of the grammar school within the Abbey of Dunfermline and was deposed by John Douglas, archbishop of St Andrews and David Ferguson, minister of Dunfermline.<sup>2</sup> He appealed to the Privy Council against his deposition. When the case came before the Lords of the Privy Council in October, 1573, they gave judgement in favour of the appellant.<sup>3</sup> It is important to observe that the defender did not appear, probably considering that the Privy Council had no jurisdiction in the matter.

This inability of the Assembly in some areas to gain a reasonable measure of control over the schools in face of all the interests involved was not lost sight of by the Church. In August, 1573, the Assembly noted that the 'order for upholding of Schools in burgh and to landward, would be declared in a more special article.'<sup>4</sup> Nothing further was heard

1. Ibid. vol. iv. p. 517.

2. R.P.C. vol. ii. pp. 288-9.

3. Ibid.

4. B.U.K. p. 279.

of this. Five years later, in June, 1578, the minute of that Assembly is somewhat more definite. 'Anent order to be tane for visitation of Colledges, Schooles and Hospitals: and the said articles, with others to be given in be the brethren, to be seen and corrected by David Fergusone, Mr Andrew Hay and the Commissioners of Kyle, Carict and Cuningham.'<sup>1</sup> Further action does not appear to have been taken in this matter. As time went on it became apparent that the ideal of 1560 would not be realised.

The failure of the Church to completely fulfil its educational programme was constantly in the mind of the Assembly. The other basic problem was the lack of money and the Assembly, throughout the sixteenth century, frequently petitioned the state and instructed the nobility to release wrongfully appropriated ecclesiastical property for the use of the schools.<sup>2</sup> Little came of the Assemblies' persistent pleadings.<sup>3</sup>

1. Ibid. p. 415.

2. B.U.K. pp. 17, 253, 279, 723 and 737.

3. There is only one reference, in the printed accounts, to a school being assisted out of the Thirds of Benefices. Thirds of Benefices. p. 239.



There was no place for schoolmasters as such within the courts of the Church although the schoolmaster often acted as clerk to the kirk session of the parish. It should be remembered that the clerk of a kirk session need not be an elder,<sup>1</sup> so if the schoolmaster was not an elder he was not a member of the kirk session. Sometimes the posts of schoolmaster and reader or exhorter were held by the same person and, occasionally, this was encouraged by the General Assembly.<sup>2</sup>

The Assembly was obviously deeply concerned about the religious

1. Practice and Procedure in the Church of Scotland. (ed. J.T. Cox) Fourth edition. Edinburgh. 1948. p. 107.
2. Thomas Duncanson was schoolmaster and reader at Stirling in 1563. (B.U.K. p. 44). Thomas Jack, master of the grammar school of Glasgow, was also vicar of Eastwood in 1573. (R.P.C. vol. iii. pp. 229-30). In 1572, at Haddington, the reader or exhorter of the common prayers was also master of the school. (Burgh Records of Haddington quoted by Grant, Burgh Schools. p. 298). The doctors of the grammar school of Ayr read on Sundays the morning prayers and also read after the preaching in the forenoon and afternoon in 1595 and 1596. (Burgh Records of Ayr quoted by Grant, op. cit. p. 298.)

instruction which was given in schools and the First Book of Discipline states that, at least in the country, this was to be undertaken by the parish minister or reader,<sup>1</sup> either of whom might also be the schoolmaster.<sup>2</sup> Shortly after the beginning of the seventeenth century the practice of the parish minister also being the local teacher almost ceased, although it was not until 1645 that an Act of Assembly made this nearly impossible.<sup>3</sup> This reform was probably brought about, not

1. First Book of Discipline. V (5).

2. James Carmicheal, minister of Haddington was 'teacher of the burgh' until his demission from that office 'in consideration of his greit burden in the ministre' in 1576. (Burgh Records of Haddington quoted by Grant, op. cit. pp. 94 and 301). In 1576, the minister of Kirkcudbright was the teacher of the school of the burgh. Two years later the town council ratified the 'feing' of Mr James Dodds, minister was 'conducit' schoolmaster. (Burgh Records of Kirkcudbright quoted by Grant, op. cit. p. 301). In 1582 Mr David Spens, minister of Kirkcaldy, undertook to teach in the grammar school as principal with an assistant. The school at that time met in the manse. (Burgh Records of Kirkcaldy quoted by Grant, op. cit.) For the dual office of reader and teacher cf. p. 382 above.

3. Act of General Assembly. dated 7th February, 1645.

by the Assembly, which does not seem to have been worried about the situation, but by the Convention of Royal Burghs which, in 1587, asked Parliament to pass an Act forbidding masters of the grammar schools in burghs to act as minister or notaries or ministers to bear the office of schoolmaster.<sup>1</sup>

As well as requiring ministers to give Biblical teaching in schools,<sup>2</sup> the Assembly expected the schoolmaster to impart the faith to the pupils by means of catechetical instruction. This was outlined in the First Book of Discipline, which stated, 'A certain time must be appointed to Reading, and to learning of the Catechism ... provided always, that first they have the form of knowledge of Christian religion, to wit, the knowledge of God's law and commandments, the use and office of the same, the chief articles of our belief, the right form to pray unto God, the number, use, and effect of the sacraments, the true knowledge of Christ Jesus, of his office and natures, and such other (points) as without the knowledge whereof, neither deserveth (any) man

1. Records of the Convention of Royal Burghs. vol. i. p. 241.

2. Book of Discipline. V. (5). first paragraph.



to be named a Christian, neither ought any to be admitted to the participation of the Lord's Table. And therefore, these principals ought and must be learned in the youth-head.<sup>1</sup> This was the policy of the Church and generally supported by the local authorities.

Catechetical teaching was, of course, not confined to schools. The catechising of children at an afternoon diet of worship on Sunday was a feature of parish life<sup>2</sup> and continued for many decades after the reform of the Church in Scotland.

The catechism in the 'Psalm Book' was the one used. During the sixteenth century the one which was bound up with the Book of Common Order was 'The Catechism or Manner to teach Children the Christian Religion' by John Calvin.<sup>3</sup> The Heidelberg Catechism, otherwise known as the Palatine Catechism, was authorised by the King and published in Latin in Edinburgh by Waldegrave in 1591<sup>4</sup> was also used although not bound up with

1. Book of Discipline. V (5) last paragraph.
2. Ibid. The Ninthe Head, concerning the Policy of the Church. Third paragraph.
3. Cowan, Bibliography. passim.
4. Aldis, List. No. 224.

the Book of Common Order until the next century when this was sometimes done.<sup>1</sup> Although Wodrow stated that it was approved by the Assembly there is no evidence other than his own statement for it.<sup>2</sup>

On the instructions of the Assembly 'ane Forme of Examinatioun befor the Communioun was pennit and formit' by John Craig and at its meeting on 30th May, 1592 it was 'allowit and imprintit be the voyce of the haill Assemblie: Therfor it is thocht neidfull that every Pastour travell with his flock, that they may buy the saimein booke, and reid it in thair families, that they may be the better instructit; and that the saimein be red and learnit in lecture Schooles in the place of the Little Catechisme.'<sup>3</sup> The Little Catechism was 'The Manner to examine Children, before they be admitted to the Supper of the Lord' by Calvin which appeared at the close of his Catechism in the 'Psalm Book'.

The last action which the Church took in the sixteenth century regarding catechetical instruction was in the Assembly of March, 1597

1. Cowan, op. cit. passim.
2. Selections from Wodrow's Biographical Collections Divines of the North East of Scotland. (ed. by R. Lippe) New Spalding Club. Aberdeen, 1890. p. 54.
3. B.U.K. p. 788.

when 'The Brethren having red and considerit the paines and travells  
 takin be Mr Patrick Sharp, Principall of the Colledge of Glasgow, and  
 his Lessouns vpon the Catechisme and grounds of religioun, allowis of  
 the same, and thinks them very necessar and profitable; and therfor  
 ordaines them to be printit'. This was printed by Waldegrave at  
 Edinburgh in 1599 entitled Doctrinae christianae brevis explicatio:<sup>2</sup>

1. Ibid. p. 947.

2. Aldis, List. No. 320.



## The Hospitals.

An account of the foundation, development and partial decline of the medieval hospitals in Scotland is not of immediate relevance to a consideration of what the Assembly regarded to be its duty in dealing with the hospitals which had, until then, been under the control of the church.<sup>1</sup> It is sufficient to say that the Church inherited the problem of the decline and decay of the hospitals which was 'an even more depressing chapter than monastic decay,<sup>2</sup>' although occasionally a hospital remained in a good state of repair and under efficient management at the time of the reformation.<sup>3</sup> The hospitals suffered

1. For information regarding hospitals in the Middle Ages in Scotland cf. D.E.Easson, Medieval Religious Houses: Scotland. London. 1957. pp. 137-59 and J. Durkan, 'Care of the Poor: Pre-Reformation Hospitals' in Innes Review. vol. x. pp. 268-80.
2. G.G.Coulton, Scottish Abbeys and Social Life. Cambridge. 1933. p. 105 and cf. A.P.S. vol. ii. pp. 49, 97 and 374 regarding the decay of hospitals in Scotland.
3. e.g. The inspection report on Blacader's Hospital, Glasgow c. 1589. Extracts from the Records of the Burgh of Glasgow. (ed. J.D. Marwick) Glasgow. 1876, vol. i. pp. 147-8.

generally from being small and were often in financial difficulties.<sup>1</sup>

'Hospitals even more than monasteries, suffered from the common medieval difficulty of safeguarding any foundation whatsoever against mismanagement or speculation.'<sup>2</sup> This is seen, for example, in the enactments of the General Provincial Council of 1549 and 1551<sup>3</sup> and in the general disregard of what was the law of the church in such matters.<sup>4</sup>

The first reference to a hospital in the Assembly was in December, 1563. The Earl of Glancairn was requested 'to concurre with the Superintendent of the West to visite the hospitall of Glasgow, and consider how the revenues pertaining to the same are bestowed or possessed, that order may be taken for support of the poore; and that they report the same to the Lords of Privie Counsell and to the Assemblie.'<sup>5</sup>

The following Assembly was informed by the superintendent that he

1. Coulton, op. cit. p. 106.

2. cf. the examples cited by Coulton, Ibid. pp. 107-8.

3. Statuta. vol. ii. pp. 113 and 132.

4. e.g. The ignoring of what was enacted regarding services in hospitals when the original foundation was altered. cf. Corpus Jur. Canon.

Clement V. iii., and xi.

5. B.U.K. p. 44.

had done nothing 'for laike of conference' with the Earl of Glencairn.<sup>1</sup> The matter was not followed up.

Requests were made to the State to restore the old foundations and later, in March, 1573, it was ordained that the Assembly Commissioners 'search and seik out the haill rentalls of the Hospitalls within thair bounds respectiue, and give the same to thair Bishops, Superintendents and Commissioners, shawand how the same are vsit or abusit, the effect that my Lord Chancellour may reseave the same, to report to my Lord Regents Grace; and this to be done, betuixt and the tent day of Apryle nixt to come'.<sup>2</sup>

These attempts at recovery proved futile unless action could be taken locally either by town councils who often controlled the local hospitals,<sup>3</sup> sometimes with the assistance of the Kirk Session,<sup>4</sup> or by

1. Ibid. p. 46.

2. Ibid. p. 291.

3. Cf. 'Hospitals' in Index to vols. i-iv. Extracts Burgh Recs. of Edinburgh.

4. Extracts Burgh Recs. Edinburgh. vol. iv. p. 394.



the Kirk Sessions which were solely responsible for others.'

However, between the Church and the State a certain amount was achieved. The accounts of the collectors of the Thirds of Benefices show that some of the pre-reformation endowments of the hospitals were listed and collected,<sup>2</sup> and on occasions, hospitals benefited from endowments which had formerly belonged to foundations which had been suppressed.<sup>3</sup>

The control over hospitals was never in the hands of the

1. Historical Notices of St. Anthony's Monastery, Leith etc. (ed. C. Roger) Grampian Club. London, 1877. p. 33.
2. Those listed were the hospitals of Old Aberdeen (Thirds of Benefices. pp. 103, 155). Edinburgh, (Ibid. p. 274). Perth, (Ibid. pp. 248n. 249). St. Anthony's, Leith, (Ibid. p. 27). St. Nicholas, St. Andrews, (Ibid. pp. 158, 241) St. Paul's Work, Edinburgh, (Ibid. pp. 27, 88, 147, 278).
3. The fruits of the 'Friars of Edinburgh' were applied to the hospital of the burgh 1568/72. (Ibid. p. 274) and the fruits of the Blackfriars of Perth were for 1571 and 1572 given to the town and hospital of Perth (Ibid. p. 248n) and for the same years the chaplainries of Nomine Jesu etc. in Perth were given to the hospital of Perth. (Ibid. p. 249.)

Assembly and no mention is made of this subject again until the end of the nineteenth century when discussions were taking place regarding a hospital which resulted in the opening of the Deaconess Hospital on 11th October, 1894.

The State took over the work of controlling the endowments and ensuring that visitations, which had formerly been in the hands of the church, were undertaken.<sup>1</sup> It continued to take its responsibility seriously as the Act of Parliament of 1592 indicates.<sup>2</sup> Parliamentary oversight continued to be the normal practice.

1. A.P.S. vol. iii. pp. 219-220.

2. Ibid. vol. iii. pp. 548-9.

## The Assembly and the Civil Courts.

Problems arose because a new relationship had to be worked out between the Church and the Civil Courts as the reformation gave to each party a new beginning and a chance to re-organise the whole position, although the fine distinctions between ecclesiastical and civil causes were disappearing, to some extent, before the complete disruption of the church courts which began in 1560.<sup>1</sup> In the reforms which followed, the accepted medieval distinction between those which were spiritual matters and those cases which were the concern of the civil lawyers did not continue. As a result, the Church did not take over the former Officials' Courts<sup>2</sup> and so the State had to legislate for the first time in spheres which had for centuries been under the sole jurisdiction of the ecclesiastical courts.

1. Selected Cases from Acta Dominorum Concilii et sessionis. 1532-33.  
(ed. I.H. Shearer) Stair Soc. 1951. pp. xvii-xviii.
2. For information about the Officials' Courts c.f. An introductory survey of the Sources and Literature of Scots Law. The Stair Soc. pp. 136-143, and An Introduction to Scottish Legal History, The Stair Soc. Edinburgh, 1958. ad. index.



The problem of first importance was what was to happen in matrimonial causes which had been heard until that time in the Officials' Courts.

The reformers were eager to dispose of much of the legalism which had blighted the nations' history and were determined to abandon canon law. The impediments to marriage which were many<sup>1</sup> had to go if they were not in agreement with the Word of God. They gave much thought to this subject.<sup>2</sup>

The Reformers declared that there were only two sacraments. They repudiated the claim set forth in Roman canon law that the two parties, in holy matrimony, administered a sacrament to each other<sup>3</sup> and admitted that divorce was possible on grounds of adultery and

1. For details of the prohibitive impediments cf. Introduction to Scottish Legal History. p. 74.
2. W. Kaweran, 'Die Reformation und die Ehe' in Schriften des Vereins für Reformationsgeschichte. vol. x. 1892.
3. For the Roman position cf. T. Sanchez, Disputationem de Sancto Matrimonio Sacramento. Antwerp, 1652. 3 vols.

desertion.<sup>1</sup> This meant that members of the reformed Church, whose lives had been blighted by some unsolvable problem within the marriage bond, looked to the Church to deal with the matter. No solution had been offered by the old consistorial courts unless, on occasions when some way out could be found in varied interpretations of Roman canon law<sup>2</sup> e.g. on ground of consanguinity and affinity within the prohibited degrees to nullify the

1. For a Scottish reformed statement c.f. First Book of Discipline. IX (3) Of Marriage. It should be noted that no statute permitting divorce on the grounds of adultery was enacted but divorce on such a ground was introduced by the reformers and the cases were heard and decree given initially in the reformed ecclesiastical courts. It was not until the passing of the Act of Parliament of 1573 that divorce on grounds of desertion was permitted, but, as is stated in the act, divorce had been granted on account of desertation since the Reformation (A.P.S. vol. iii. pp. 81-2). For a reformed statement cf. Theodore Beza, Tractatio de Repudius et Divortius. Daventry, 1651. This book exerted some influence in Scotland, for example, it was in the library of Clement Little who was one of the first Commissaries in Edinburgh and an Advocate of the Church. Maitland Club Miscellany, vol. i. p. 292.
2. Liber Officialis Sancti Andree, Abbotsford Club, Edinburgh, 1845. pp. xii-xxvii.

marriage.<sup>1</sup> Although it should be noted that the canonical prohibitions regarding the marriage of persons in the second degree of consanguinity or affinity were not set aside by the reformers.<sup>2</sup>

The result of such a position meant that if a new court were set up to deal with divorce cases under new legislation it could either be ecclesiastical or civil as marriage, when divorce proceedings were instituted, had deteriorated to little more than the consideration of a civil contract. Although to the reformers marriage was much more than a civil contract and this is reflected in parliamentary legislation.<sup>3</sup>

The attitude of the reformers on divorce was clearly stated at Geneva as early as January, 1537 when it was considered that the judgement of such cases was the responsibility of the civil

1. Cf. e.g. Sir B. Seton, 'The Distaff Side, a Study in Matrimonial Adventures in the 15th and 16th Centuries', in S.H.R. vol. xvii. pp. 272-286.
2. Introduction to Scottish Legal History. p. 93.
3. 'Anent the mariage of adulterous persons'. (A.P.S. vol. iv. p. 233.)



authority. This principle was written into the Genevan Church Constitution in 1541-2.<sup>2</sup> Obviously separation, non-adherence etc. were different matters and it was the duty of the church courts to exercise pastoral care over such parties.

With such a state prevailing, the problem of the setting up of a universally recognised court of law to deal with matrimonial causes had to be faced by the Assembly and the State. The situation in the years immediately after 1560 was extremely vague due to the lack of definite procedure being laid down by Parliament as it had become part of the civil administration to legislate in this matter now that it was possible to sue for divorce. Some cases were still decided by the remnants of the pre-reformation courts<sup>3</sup> even although

1. From the memorandum of the Ministers of Geneva to the Council 13th January, 1537, and the Council accepts with modifications 16th January, 1537. Kidd, Documents, pp. 560-8.
2. The New Ecclesiastical Constitution in Geneva. Para. vii. Marriage Ibid. p. 598.
3. B.U.K. p. 35.

the consistorial jurisdiction had officially ceased.<sup>1</sup> Other cases were

1. Although the bishops of the pre-reformation Church were prohibited from using any jurisdiction 'by the said bishop of Rome's authority' after August, 1560 (A.P.S. vol. ii. p. 534) some of the bishops continued to exercise their authority during the time of transition. The archbishop of St Andrews, for example, as well as granting two commissions connected with the confirmation of charters in 1561 (Statuta, p. 174), exercising authority in connection with the provision to a parsonage (W. Fraser, Memorials of the Earls of Haddington. Edinburgh. 1889. vol. ii. p. 265-6) and collation to a benefice (Statuta. p. 176) and issuing dispensations for marriage in November, 1561 (Morton Papers in the Register House quoted by G. Donaldson, 'The Church Courts' in An Introduction to Scottish Legal History. p. 367) and on 17th February, 1566, (W. Fraser, The Sutherland Book. Edinburgh. 1892, vol. iii. pp. 131-2), as 'Primate of all Scotland and Legate with power of a Legate a latere of the Apostolic See', issued, in 1562, a commission in connection with a divorce action raised by the Earl of Eglinton and finally gave dispensation for a second marriage. (Statuta, p. 174.) The following year, in May, his commissioners pronounced a sentence of divorce. (W. Fraser, Memorials of the Montgomeries, Earls of Eglinton. Edinburgh, 1859. vol. ii. pp. 163-81) Bishops, on occasions, still dealt with divorce cases after the re-establishment of the commissary courts in February and March of 1564. (Donaldson, 'The Church Courts' in op. cit. p. 367.)

decided by the superintendents or commissioners with<sup>1</sup> or without their appropriate courts<sup>2</sup> (i.e. the Kirk Session of the main towns of the provinces), parish ministers with<sup>3</sup> or without their Kirk Sessions<sup>4</sup> also appear to have issued decrees. On one occasion, at the end of 1560, the Lords of Council asked the Kirk Session of St Andrews to give sentence of divorce<sup>5</sup> and on 19th March of the following year, they gave authority to the superintendent of Lothian acting along with the Kirk Session of Haddington, Linlithgow or Stirling to give judgement in divorce cases 'quhill the next parliament that further order be taken'.<sup>6</sup>

Aware of this unsatisfactory situation, the Assembly agreed on 4th July, 1562, 'Anent the actiouns of divorcements, to make supplication to the secreit counsell, that either they give up universallie the judgement of divorce to the kirk and their sessionis, or els to

1. B.U.K. p. 31.

2. Ibid. p. 30.

3. Selections from the Records of the Kirk Session, Presbytery and Synod of Aberdeen (ed. J. Stuart) Spalding Club, Aberdeen. 1846. p. 11.

4. B.U.K. p. 30.

5. Donaldson, 'The Church Courts' in op. cit. p. 397.

6. MS. Warrander Papers vol. A. fol. 98 in the G.R.H. quoted by G.

Donaldson, The Scottish Reformation, Cambridge, 1960. p. 122.



establish men of good lyves, knowledge and judgement, to take the order thereof; provyding alwayes that the saids Lords make provisioun and ordinance how the guilty persons divorced salbe punished.<sup>1</sup> In a supplication presented to the Queen and the Privy Council by the superintendents of Lothian and Fife,<sup>2</sup> it was requested 'That juges be appoynted to hear the caused of divorcement; for the kirk can no longer sustene that burthen, especialie because thair is no punishment for the offendars.'<sup>3</sup> It will be noticed that the granting of a decree was not the only matter of importance to the Church but also the punishment of the guilty party.

As the Privy Council took no action to institute legislation the situation continued to be unsatisfactory. On account of this it was decided just before the close of the Assembly of December, 1562 'that no minister nor others bearing office within the Kirk, take in hand to cognosce and decide in the actiouns of divorcement, exept

1. Ibid. p. 19.

2. Petrie, History, p. 232.

3. B.U.K. p. 23.

the superintendents and they to whom they sall give speciall commissioun, and betwixt speciall person'.<sup>1</sup> It was obviously a temporary measure to satisfy men and women in need of immediate help but it was in no sense the final solution to the problem of the necessity of a new judicature.

On certain occasions the Assembly appointed Courts of Commission to deal with divorce cases<sup>2</sup> or remitted them to the Superintendent's court.<sup>3</sup> These did not only dispose of new cases but in certain instances were appointed to hear appeals.<sup>4</sup> The last recorded commission was constituted in 1572.<sup>5</sup>

1. Ibid. p. 30. The main purpose of this Act was to regularise judicial procedure within the Church which up until that date had been extremely vague, and was designed to restrict divorce suits to the superintendent's court and exclude the kirk sessions from dealing with such cases.
2. B.U.K. p. 262.
3. Ibid. p. 35.
4. Ibid. p. 35. An appeal against the sentence pronounced by Adam Bothwell, bishop of Orkney in the case of Magnus Halcro and Margaret Sinclair.
5. Ibid. p. 262.

As a result of representations from the Church and others, the Privy Council, on 28th December, 1563, appointed a committee of six to draw up a constitution for the commissary courts so that they could officially take the place of the pre-reformation consistorial courts.<sup>1</sup> A royal charter was issued on 8th February, 1564 which constituted four commissaries at Edinburgh who were given the exclusive jurisdiction for the country as a whole in all matrimonial causes and cases of bastardy.<sup>2</sup>

Relations between the commissary courts and the Assembly were very close and must have presented little difficulty. There was no legal connection between the two courts but on account of the personnel appointed a very direct and harmonious contact must have been maintained.

The four commissaries who were appointed for Edinburgh in 1564 were James Balfour, Clement Little, Edward Henryson and Robert Maitland.<sup>3</sup> Their knowledge of canon law was of great importance in deciding to give

1. R.P.C. vol. i. p. 252.

2. Ibid. vol. xiv. pp. 304-7.

3. James Balfour was to receive 400 merks and the others 300 merks 'in their feis yierlie.' Register of the Privy Seal. vol. v. No. 1633.



these men such appointments.<sup>1</sup> Two of them were closely associated with the Assembly. Clement Little was appointed one of the procurators of the Church a few years after becoming one of the commissaries.<sup>2</sup> His library reveals his great interest in canon law, the constitutions of other reformed churches and theology.<sup>3</sup> It was not until December, 1565, after his provision to the deanery of Aberdeen on 17th July, 1565,<sup>4</sup> that Robert Maitland appears in the Assembly<sup>5</sup> although in what capacity is difficult to decide. He was an Ordinary Lord of the Court of Session before that date.<sup>6</sup> He was active in various Assembly

1. F.P. Walton, 'The Courts of the Officials and the Commissary Courts' in An Introductory Survey of the Sources and Literature of Scots Law. Stair Society. Edinburgh, 1936. pp. 133-53 especially pp. 146-48.
2. See p. 270 supra.
3. 'Cathologus librorum quos vir eximius et beate memorie magister Clemens Litill Edinburgene ecclesie et ministris ejusdem obiens legavit et consecravit. MDLXXX.' in Miscellany of the Maitland Club. vol. i. pp. 287 et seq. and Durkan and Ross, 'Early Scottish Libraries' in Innes Review. vol. ix. pp. 123-24.
4. Reg. Privy Seal. vol. v. No. 2217.
5. B.U.K. p. 76.
6. Books of Sederunt quoted by Brunton and Haig, op. cit. p. 122.

committees<sup>1</sup> until he was prevented from doing so by ill-health in 1575.<sup>2</sup>

Alexander Sime, who was appointed a procurator of the Church at the same time as Little,<sup>3</sup> was also a Commissary before 23rd August, 1567.<sup>4</sup> It is uncertain whom he succeeded.

At St Andrews, the Commissary was William Skene<sup>5</sup> who had been found suitable at the first Assembly for the ministry and teaching;<sup>6</sup> although he 'could nocht lyk weill of John Knox's doctrine.'<sup>7</sup> His interest in theology was different from the reformers and had commenced some years before 1560.<sup>8</sup> It is significant that although

1. B.U.K. pp. 76, 289, 293, 298, 299, 317, 325.

2. He was succeeded by Sir Partick Vans of Barnburrow in January, 1576 on account of his 'inhabilitie'. Books of Sederunt quoted by Brunton and Haig, op. cit. p. 123.

3. See. p. 270 supra.

4. R.P.C. vol. i. p. 551.

5. For some details of Skene cf. McCrie, Melville, pp. 147 n2, 365, 365n1 and n2.

6. B.U.K. p. 4.

7. Melville, Diary, p. 26.

8. He had in his library Durand de St Pourcain, O.P. Commentarii in Sententias, Paris. 1550 and Pierre Lizet, Aduersum pseudoeuangelicam haeresim. vol. i. Paris. 1551. Durkan and Ross, op. cit. pp. 107 and 109.

he did not become a minister his appearances as a Commissioner to the Assembly shows that he was anything but hostile to the reformation.<sup>1</sup> He was professor of Civil Law in the University of St Andrews.<sup>2</sup>

Such contacts continued into the next century. The Commissary of Aberdeen at the beginning of the seventeenth century was Thomas Nicolson, advocate,<sup>3</sup> clerk to the General Assembly.<sup>4</sup> His successor James Sandilands, advocate, was also clerk to the General Assembly.<sup>5</sup>

The connection between the 'new order' and the commissary courts was not the only remarkable feature of the reconstructed courts. The continuity of organisation and personnel within the courts was greater than is often realised. 'In consistorial

1. B.U.K. pp. 4, 375 and Calderwood, History, vol. iii. pp. 310 and 376.

2. Melville, Diary. pp. 28-9.

3. Grant, Advocates. p. 165.

4. See. p. 264 *supra*.

5. Grant, op. cit. p. 186. Thomas Sandilands, advocate, son of James Sandilands, and an unsuccessful candidate for the Assembly clerkship (B.U.K. p. v.) succeeded his father as Commissary of Aberdeen. (Grant, op. cit.)



matters there was less change than might be imagined. The rules of the Canon Law were not abrogated, and the Consistorial Courts had no more difficulty in adjusting themselves to the new religion than modern courts have to legal changes brought about by socialism'.<sup>1</sup> Many of the Staff of the court continued their work uninterrupted through the period of change. Mr James Balfour, parson of Flisk, later Sir James Balfour of Pittendriech, Lord President of the Court of Session,<sup>2</sup> was appointed Official of Lothian in 1549<sup>3</sup> and continued as the first of four Commissaries in Edinburgh when the Court was set up in 1564.<sup>4</sup> Mr Archibald Beaton, chantor of Aberdeen and natural son of Cardinal David Beaton, was Official General of Glasgow in 1556<sup>5</sup> and he remained in office as Commissary until after 1581.<sup>6</sup>

1. J.S. Muirhead, The Old Minute Book of the Faculty of Procurators of Glasgow 1668-1758. Glasgow, 1948. p. 20.
2. For a short account of Balfour Cf. Brunton and Haig, Senators of the College of Justice. pp. 110-114.
3. Knox, History, vol. i. p. 108.
4. See p. 402 supra.
5. Liber collegii nostre Domine (ed. J. Robertson) Maitland Club, Glasgow, 1846. p. 64.
6. Munimenta Almae Universitatis Glasguensis. vol. i. pp. 136-138.

probably until 1583.<sup>1</sup> At Dumfries, Mr Archibald Menzies was Commissary from 1543 until 1579.<sup>2</sup> Hugh Craigie was Commissary of Moray from 1559 until 1586<sup>3</sup> and James Duff would appear to have been Commissary of Inverness before and during the years of change.<sup>4</sup> In Dunkeld, John Bertoun, the existing commissary seems to have been continued in his office by a fresh commission from the Crown<sup>5</sup> and Duncan McNair was appointed to succeed the late Robert McNair as commissary clerk in November, 1565.<sup>6</sup>

The organisation of the pre-reformation church was responsible for the way in which Scotland was divided into commissaries' areas. The boundaries were 'based on those of the old dioceses and their subdivisions, though the commissariat of Edinburgh absorbed the detached parishes of the diocese of Dunkeld which fell within its bounds.'<sup>7</sup>

1. J. McUre, History of Glasgow, (new edition) Glasgow, 1830. p. 76.
2. R.P.C. vol. iii. p. 71.
3. G.Donaldson, 'The Church Courts' in Introduction to Scottish Legal History. p. 369.
4. Ibid.
5. Register of the Privy Seal. vol. v. Nos. 3156, 3209
6. Ibid. vol. v. Nos. 2443, 3327.
7. G.Donaldson, op. cit.

The General Assembly was not completely satisfied with the organisation which was set up. The giving to the Commissary Court of Edinburgh of sole jurisdiction was not in the best interest of the people of Scotland due to the extra expense involved. So in July, 1569 the Assembly asked that courts should be set up to legislate in divorce action and asked that commissioners be placed throughout the country.<sup>1</sup> The Regent after a Convention held in Perth on 30th July promised 'to take sufficient order in that behalf, be ane of the Lord of Session, at the nixt sitting down therof.'<sup>2</sup>

The moral and practical problems connected with divorce proceedings were the aspects always uppermost in the mind of the Assembly and this is emphasised in the last notice regarding this matter in the Article of the Assembly of August, 1574 to be proponed to the Regent by the Commissioners of the Church. It requested that he should commission certain persons in every diocese to sit in such causes where the parties are poor.<sup>3</sup> The Assembly desired a return to medieval practice with at least one divorce

1. B.U.K. p. 146.

2. Ibid. p. 148.

3. Ibid. p. 306.



courts in each diocese, as there had been at one time twenty one Officials' Courts in Scotland<sup>1</sup> but the judicial administration had been organised centrally and no change took place, except in matters of appeal, until the Court of Session became the supreme consistorial court in 1830.<sup>2</sup>

The restoration, by Mary, Queen of Scots, of the consistorial jurisdiction of John Hamilton, archbishop of St Andrews on 23rd December, 1566,<sup>3</sup> 'at once illegal and unwise',<sup>4</sup> although it caused the Assembly some anxiety during its meeting the same month,<sup>5</sup> had no effect on the status or function of the commissary courts which the Queen had set up three years before as she revoked the authority given to Hamilton before 9th January, 1567.<sup>6</sup> The place of the

1. J. Ferguson, A treatise on the present state of the consistorial law in Scotland. With reports of decided cases. Edinburgh. 1829, p. 89.
2. 2 Geo. IV and I Will. IVc. 69.
3. Statuta, vol. ii. p. 178.
4. Alphons Bellesheim, The History of the Catholic Church in Scotland, (translated with notes and additions by O. Hunter Blair) Edinburgh and London, 1887 vol. iii. p. 168.
5. B.U.K. pp. 88-90 and cf. Knox's letter in History. vol. ii. pp. 542-44.
6. Calendar of State Papers, Foreign, Elizabeth. (ed. A.J.Crosby) London. 1871. vol. viii. p. 164, Calendar of State Papers relating to Scotland, (ed.M.J.Thorpe) London, 1858. vol.i.p.241. and Statuta. vol.i.p.clxxx n.1.

special commission within the legal framework of Scotland, which would appear to have been appointed by the Queen on 27th April, 1567, consisting of the Archbishop and other Roman clergy to decide on Bothwell's action for divorce, presents problems of great difficulty but these are not connected with the relations between the Assembly and the Civil Courts.'

The Assembly and the Court of Session gradually recognised the place of the other within the judicial structure of the country. In medieval Scotland, the church courts' relations with the civil authorities 'seem to have been much more harmonious than in most other countries'.<sup>2</sup> This tradition continued as the changes brought about by reformation were worked out. The Court of Session reminded the Assembly of its responsibility of ensuring that all death within parishes were recorded;<sup>3</sup> while the Assembly did not hesitate to claim a priority when Church cases came before that Court to be heard.

1. John Riddell, Peerage and Consistorial Law, Edinburgh, 1842, vol. i. p. 433 and cf. J. Hill Burton, History of Scotland, Edinburgh, 1897, vol. iv. p. 221.
2. Lord Cooper, The Dark Age of Scottish Legal History, 1350-1650. Glasgow, 1952. p. 28.
3. B.U.K. pp. 372-3.

The General Assembly very quickly came to an arrangement with the Lords of Council and Session. It was agreed that every day of Session one of the Church's actions given in by the Solicitor and Procurators of the Church would be taken. At the Assembly of March, 1570, in Articles presented to the Lords of Session by David Lindsay on behalf of the Assembly it was requested that 'because it is well known to your Lordships, that fra ye enter in other causes, it is not possible to you to get any other called: therefore your Lordships will condescend and ordain the said actions of the Kirke, to be dyaly called first before any other, so that it be not deferred to the end; wherethrough both the actions lye uncalled, and your Lordships are troubled and slandered, that ye doe nothing in the Kirks causes.'

The answer given was that they would 'do such diligence to satisfie this article, as they may goodly.'<sup>2</sup>

Nevertheless, the matter was still giving trouble five years later and the Assembly requested the Lords of Session on behalf of Ministers and

1. B.U.K. pp. 169-70.

2. Ibid.



readers, 'that they may have expedition of thair process persewit befor them that they be not abstractit from thair charges.'

It was probably about the same time that the Court of Session changed its procedure in the calling of cases affecting ecclesiastical persons and set aside two days each week, during the sitting of the Court, for the hearing of such cases. This practice lapsed for a time but the King's Commissioners to the General Assembly of 1586 agreed that it would be restored.<sup>2</sup> The intentions of the Court were better than its practice as the Synod of Fife complained to the Assembly of February, 1588 that 'the Lords of Sessioun keeps not thair ordinar dayes, Wednesday and Fryday, for calling Ministers actiouns.'<sup>3</sup>

1. Ibid. p. 341.

2. Ibid. p. 667. The general principle of this practice had been initiated by an act of serunt in 1565. (Institution of Session. (Edinburgh University MS). fol. 1. quoted in 'Judicial Administration in Session and Justiciary' by R. K. Hannay in The Sources and Literature of Scots Law. p. 403.)

3. Ibid. p. 719.

The one occasion, recorded in the minutes, which reveals deep differences which might have led to a rift between the Assembly and the Court of Session, is the case of John Graham of Hallyards, one of the Lords of Council and Session. It was concerned with an apparent overlapping in jurisdiction. There is no need to go into the whole background of the matter as the history of the case prior to the action of the Assembly is well-known.<sup>1</sup> John Graham, as a result of certain honourable actions of Patrick Simson, minister of Stirling, which were instrumental in Graham's losing the case in the Court of Session, alleged that Simson had improperly influenced the main witness, Robert Ramsay. Simson complained to the Assembly of June, 1591 which summoned Lord Hallyards to appear before it, to answer for calling Simson a 'suborner'. He refused to acknowledge the Assembly as the proper

1. The Historie and life of King James the sext: being an account of the affairs of Scotland, from the year 1566, to the year 1597; with a short continuation to the year 1617. (ed. T. Thomson) Bannatyne Club. Edinburgh. 1825. p. 266 and Spottiswood, History. vol. ii. pp. 413-5.

judicature in the matter and claimed that he would prove his case before a competent judge. The Assembly would not admit this and demanded proof of the allegation to be shown or indicated that it would censure him.

It was at this stage that the College of Justice intervened having been approached by Hallyards. It sent a deputation composed of Lord Provand, Lord President of the College of Justice,<sup>1</sup> Lord Culross and Lord Barnbarroch.<sup>2</sup> These representatives appeared before the Assembly and claimed that the 'matter insidentlie depends befor them, being ane civill cause, and proper vnto thair cognitioun, and quhervnto the Kirk is not judge; desyring, therfor, that the Kirk sould not proceed in thair judgement thervpon vntill the cause before them tooke ane end, quherin, so diligentlie as was possible, they were proceeding;

1. It was a matter which he had considered before as he had been a commissioner for settling the jurisdiction of the church. He was appointed on 11th November, 1579 when he was also made a Privy Councillor (A.P.S. vol. iii. p. 114). For further details of him cf. Brunton and Haig, Senators. p. 96.
2. Short notes on these two judges will be found. Ibid. 160-3.



and that they should doe nothing to the derogatioun of the priveledge of the Colledge of Justice.' They were removed and after consideration, the Assembly recalled them and were informed that the Assembly 'would doe nothing to hurt nor to derogat thair priveledge, nor yet proceed or judge in any civill matter; bot in this cause, being chiefly occupied in purging the members of thair awin bodie, quilk is ecclesiastick, they might judge without any prejudice to the civill judgment; desyreand the Lords as thay wald not hinder nor wisch the hinderance of thair judicature, so thay wald not think evill that the Kirk proceed in purging of thair awin body and middling ecclesiastically.'

The following day, the Assembly proceeded further in the consideration of the case and called Lord Hallyards and asked him 'if he acknowledgit the judgement and jurisdiction of the Kirk in this cause or not.' He replied that 'he acknowledgit with reverence the judgement of the Assemblie in all causes appertaining to them: Bot vnto this cause quhilk is civill, quhervnto the Lords are primario Judices, befor quhom also it presentlie depends, they cannot be judges

primario.' He was removed and the Assembly, after deliberation, recalled him and pronounced, 'That they fand themselves Judges primario in this cause, and instantlie to preceid therin; requyring him quhat farther he wald propone or alledge for his defence in that cause.' He 'tooke instruments of thair interlocuter, protesting for remeid of law; quhilk protestation, because it was made verbo, and conteinit many heids, he was desyrit to give in to the Clerk (of the Assembly) in wryte'.

The position seemed grave, the Court of Session resolved to interdict the General Assembly and forbid its proceeding further, 'but by the mediation of some well-disposed persons, that did not like to have questions of jurisdiction moved, the business was settled and both actions ordained to cease.'<sup>2</sup>

Relations between the two courts would appear to have remained harmonious throughout the century. The only other reference to this problem is in May, 1586 when the Assembly asked the King 'That the judgement of all causes concerning deprivation of Ministers from benefices in the second instance, sall come be way of appellatioun

1. B.U.K. p. 782.

2. Spottiswoode, History, vol. ii. p. 415.

to the General Assemblie, and ther take finall end, and not before the Lords of Session by way of reduction.' This was probably done as much to prevent ministers taking their cases on appeal to the civil court as to safeguard the Church from interference from the Court of Session.

The mutual respect which existed between the two courts made it possible for the Assembly to bring about reconciliation between two ministers of the Church which might otherwise have resulted in an action in the Court of Session. This is exemplified in the case of John Rutherford, Provost of St Salvator's who gave in a complaint to the General Assembly of March, 1572 against John Winram, superintendent of Fife 'for the wrangous disponing of the Vicarage of the commoun kirk of Kilmanie pertaining to the said Provost and his Collegues brether of the said Colledge; as also for obtaining of the gift and giving of ane altarage in the same Colledge situat at St Johns altar, the gift quhair of the said Mr Johne as Provost alledgit to have pertaintit to him be vertue of foundation of the same, &c.' and the reason given for bringing the matter before



the Assembly was 'that the Colledge and brethren forsaid be not put to surfett and expensses in seiking remedy befor vther Judges.'

The matter of the vicarage of Kilmany was remitted to a committee of five with instructions to go to St Salvator's and scrutinise the records connected with the foundation of the College and report to the next Assembly what was contained in them regarding the presentation and collation to the vicarage.<sup>2</sup> The documents must have been in the possession of Rutherford as the committee gave in a report the same day with an extract from the Bull of Pope Pius II containing and confirming the revised charter of Bishop James Kennedy dated 13th September, 1458.<sup>3</sup> The Assembly then communicated this to the Senators of the College of Justice and it can be assumed that Winram took no further action as the foundation was so clearly in favour of the

1. B.U.K. p. 239.

2. Ibid.

3. 'Vicarie de Kilmanie electio et presentatio ordinaria facienda ad Dominum Prepositum, et ceteros de dicto Collegio graduatos debent pertinere. Qui quidem Vicarius omnia onera ordinaria subire tenetur.' (B.U.K. p. 240) The full text of the Bull is given in Cant, St Salvators. pp. 66-80 and the section quoted above appears Ibid. pp. 71-2.

Provost of St Salvator's.

During the period when the country was perturbed about the activities of the Romanists, the Church was not satisfied with the civil legislature and the method of inflicting punishment on those found guilty by ecclesiastical courts. The Assembly submitted a list of names to the king in August, 1588<sup>1</sup> and asked him to appoint a Commission of Judiciary composed of all or any three of them, 'giving them power as Justicers in that parte, to punish such crimes as in speciall shall be given in ticket be Mr David Lindsay; and ordains the Presbyteries therof to give in the names of papists, and excommunicated, and maintainers of them, to their Commisseeioner, to the effect they may be presented to the said Justicers.'<sup>2</sup> Whether this was done or not cannot be ascertained. The king and Privy Council were so busy making military preparations to defend the country against the threatened Spanish invasion that this plea was probably overlooked.<sup>3</sup>

1. The names are given in B.U.K. p. 731. The last three were advocates. Grant, Advocates. pp. 113, 189 and 164.

2. B.U.K. p. 731.

3. R.P.C. vol. iv. pp. 306-10, 314, 315.

On occasions the Assembly was of the opinion that the Court of Session was not taking action in certain cases but in all probability such cases were passed over on account of extreme political pressure being brought to bear upon the Lords of Council and Session or because of conditions which made it impossible for the court to enforce decree.

While the Assembly recognised that the Court of Session had a sphere of influence of its own, it was also aware of its duty to see that the courts of justice conformed to what was right and did not hesitate to pass judgement upon the courts' proceedings if it considered that they were evil. The statement entitled 'Offences in the Court and Judgement Seat' made in March, 1596, reveals what the Assembly felt to be within its province and that it was entitled to pass judgement on sinful practices within the law courts.

'Vniversal neglect of justice both in civill and criminall causes, as, namelie, in granting of remissions and respitts for blood, adulteries and incests; no executioun of good lawis made against vyces, or in favour of the Kirk; and in civill matter, the Judges,



for the most part, vnmeitt, either in respect of the want of knowledge, or conscience, or baith; and quhen any office vaikes, the worst men advancit therto, both in high and inferiour reowmes .....

The session is chargeit with buying of pleyis, delaying of justice, and bryberie, quhilk is evident by extraordinar and sudden conquests.<sup>1</sup>

As it was outwith its jurisdiction to effect any change, the Assembly asked that by the king's 'counsell and authoritie, sufficient remedie in tyme may be provydit thervnto.'<sup>2</sup> James was asked to take 'ordour substantially be advyce of his Counsell and Estate, how the principall judgement seats and vther inferiour Judgements may be purgeit of vnqualified and corrupt persons, and filled with vthers meit to discharge that calling faithfullie, for the comfort of his Majesties peaceable and well disposed subiects.'<sup>3</sup> No action was taken by the king when he received the complaints and suggestions.

1. Ibid. p. 875.

2. Ibid.

3. Ibid. p. 877-8.

## Censorship and the Control over Presses and Books.

The medieval ecclesiastical practice of censoring books and controlling of printing presses<sup>1</sup> was not changed by the reformers. The Assembly continued to control the press,<sup>2</sup> to censor all books issued within the country<sup>3</sup> and to ensure that as far as possible all heretical books imported into Scotland were confiscated.<sup>4</sup> The Church expected the

1. A statute of the Provincial Council of 1549 enacted 'that the several local ordinaries of places appoint, as inquisitors of heretical error in their respective dioceses, men of piety, integrity, and learning, and versed in theology, who must also be men of good life and good name, and of great tact; who shall with the utmost diligence make inquisition anent heresies, and for the repression of errors and foreign opinions concerning the sacraments of the Church, and other (innovations); and who shall be bound to make search for condemned books written by heretics, and by persons ill-effected towards the faith; and these, when they have been found, shall be brought to the local ordinaries.' Patrick, Statutes. pp. 122-3.

2. B.U.K. pp. 125-6.

3. Ibid.

4. Ibid. pp. 279-80, 306.

support of the secular authority to implement these policies<sup>1</sup> as had been the practice of the church before 1560,<sup>2</sup> although the political theory behind the continuing of state legislation and control over such matters was radically different.<sup>3</sup>

The practice of the examination of books by the bishops or by censors appointed by them, which had been instituted in the Bull of Innocent VIII dated 17th November, 1487 and re-iterated with additions in the Bull Inter sollicitudines. of Leo X promulgated on 4th May, 1515 during the Lateran Council,<sup>4</sup> was continued by the Assembly by an Act of June, 1563. 'It is statute and ordainit that no worke be sett forth in print, neither yet published in wryte, tuiching religioun or doctrine, untill sick tyme as it salbe presentit to the superintendent of the dyocie, advyseit and approveit be him, and be sick as he sall call of the most learned within his bounds'<sup>5</sup>; but the Assembly gave the

1. Ibid. pp. 125-6.

2. The continued use of an Act of Parliament, framed at the instigation of the pre-reformation Church in Scotland against heretics, in dealing with anti-reformation opinions is important. cf. p. below.

3. Infra. 432.

4. J.D.Mansi, Sacrorum Conciliorum. Paris, 1802. vol. xxxii. cols. 912-3. and cf. von Hefele, Conciliengeschichte. Freiburg, 1887. vol. viii. pp. 391, 651, 750.

5. B.U.K. p. 35.



superintendents an opportunity to consult itself if they so desired by adding, 'if they or anie of them doubt in any point, so that they cannot resolve clearly in the same, they sall produce the said worke to the Generall Assemblie of the kirk, where ordour salbe tane tuiching the resolutioun of the said doubt.'

This system was altered in theory by the Assembly of August, 1574 which set up a committee to oversee the publication of books;<sup>2</sup> no doubt to make sure that the Act of 1563 was observed or at least that nothing was published without the committee's approval. The work of this committee, if it ever did anything, cannot be reviewed as no further mention is made of it in the minutes of the Assembly. The method of dealing with this whole matter was confused. The same Assembly set up a separate committee 'For reviewing and sighting of the history of Job compiled be Mr Patrick Adamsone in Latine verse.'<sup>3</sup>

The examination of particular books by the Assembly seems to have been undertaken on the matter being raised by a member of the Court, for example, the earl of Glencairn presented to the Assembly, in March, 1574,

1. Ibid.

2. Ibid. p. 310.

3. Ibid.

a book entitled 'Of God's Providence' written by a minister of the Church for consideration.<sup>1</sup> Although sometimes it is difficult to discover if such business was always initiated in this way.<sup>2</sup>

At the beginning, the ministry of the Church took seriously the injunction of the Assembly 'that no worke be seet forth in print, neither yet published in wryte, tuiching religioun or doctrine, untill sick tyme as it salbe presentit to the superintendent of the dyocie, advyseit and approveit be him.' The number of manuscripts considered by the Assembly though not considerable is significant. Presumably the majority were disposed of by the superintendents in accordance with the Act of Assembly. The cases mentioned in the records of the Assemblies were where the superintendent had some doubts or felt the subject matter of such importance that the Assembly had to be consulted. These were referred to the Assembly in compliance with the Act which has already been mentioned.<sup>3</sup> In 1590, the Assembly referred a book to the presbytery of Edinburgh,

1. Ibid. p. 289

2. e.g. in the case of Thomas Bassandyne's printing of The Fall of the Roman Kirk and the appearance of 'ane baudie song callit Welcum Fortoun' in the Book of Common Order, the minutes only record that 'It was delaitit and found ...' Ibid. pp. 125-6.

3. Supra p. 423-4.

which illustrates the substitution of the presbytery for the superintendent on the establishment of presbyterial jurisdiction.'

In December, 1566, an Assembly committee was set up 'to consider and revise the answer made by Mr William Ramsay, one of the masters of Sanct Salvators colledge,' to Henry Bullinger's Judgement declaring it lawfull for Ministers of the Church of England to weare the Apparell prescribed by the Lawes. London, 1566.<sup>2</sup> This manuscript had obviously been referred to the Assembly so that no book would be published exposing the errors of a prominent member of the reformed church by a minister within Scotland without the approval of the General Assembly.

Throughout the period, contemporary Roman Catholic polemic and apologetic literature was being read and answers were being prepared by individual ministers. The first book connected with this subject was published without the Assembly's approval, it was recalled and referred to Alexander Arbuthnot for revision by the Assembly of July, 1568.<sup>3</sup> It does not appear to have been republished as no copy of the book is

1. B.U.K. p. 777

2. Ibid. p. 90.

3. Ibid. pp. 125-6.



known to exist.<sup>1</sup> James Tyrie's The Refutation of ane answer made be Shir Johne Knoxe to ane letter ... Paris, 1573 gave rise to two essayed replies. The first by John Duncanson was remitted, in March 1574, to an Assembly committee of seven or any four of them 'to revise and consider the reply made by John Duncanson' and 'report again to the Assembly, to the effect it may be understood, Whither the said reply may be committed to print or not'.<sup>2</sup> Two years later, five were instructed 'to review and oversee the book wrytin by their brother, Mr George Hay, contra Tyrie, and to consider and try the said work; and what judgment or opinion they conceive, the same- en to propound to the next Assemblie of the brethren.'<sup>3</sup> George Hay had previously been engaged in controversy; he wrote The confutation of the Abbote of Crosraguels masse ... which was printed by Lekpreuik in 1563.<sup>4</sup> No further mention of either of these committees reporting appears in the records nor were these answers to Tyrie ever printed.<sup>5</sup>

Patrick Blackburn prepared a reply to a book by James Gordon,

1. R.Dickson and J.P.Edmonds, Annals of Scottish Printing. Cambridge, 1890. p. 307.
2. B.U.K. p. 289.
3. Ibid. p. 361.
4. Aldis, List No. 40.
5. Ibid. passim.

S.J. probably his De Puro Dei Verbo. Vienna, 1572. At the Assembly of February, 1587 this reply was remitted to a committee of four to consider.<sup>1</sup> As Gordon was in Scotland at that time<sup>2</sup> the matter was dealt with immediately and a very favourable report was made to the same Assembly<sup>3</sup> but in this case also the manuscript never appeared in print.<sup>4</sup>

The General Assembly while, when it deemed it necessary, would direct a printer 'to call in againe all the saids bookes that he hes sauld, and keip the rest unsauld untill he alter the ... title, and also that he delete the ... bauldie song out of the end of the psalm booke: And further, that he abstaine in all tyme comeing fra farther printing of any thing without licence of the supreame magistrate, and reviseing of sick things as pertaine to religioun be some of the Kirk appointit for that purpose',<sup>5</sup> showed by its legislation that it was aware of the importance of the production of books of contemporary value<sup>6</sup> and of the use of the press in defending the faith.<sup>7</sup>

1. B.U.K. p. 706.

2. W.Forbes Leith, Narratives of Scottish Catholics. Edinburgh, 1885.passim.

3. B.U.K. p. 725.

4. Aldis, op.cit. passim.

5. B.U.K. pp. 125-6.

6. Ibid. p. 780.

7. Ibid. p. 777.

By a minute of the Assembly of March, 1574, there is revealed a concern by the Assembly for the dissemination of literature for the instruction of the ministry. The Assembly agreed to an overture from the synod of Lothian 'That sick Ministers as hes not quherwith to buy bookes, may have bookes lousit to them be the collectour, and to allow the pryces therof in their stipends',<sup>1</sup> While at the Assembly of 1581, Hyperius, De Theologo,<sup>2</sup> Basle, 1556 Book IV was given by the Assembly to Principal Thomas Smeaton, Melville's successor at the University of Glasgow, to translate and it 'thoght meet, that the samine may be committed to irons and printed'.<sup>3</sup>

One of the most important functions of the printing trade, as far as the Church was concerned, was the providing of Bibles and psalm books for the people of Scotland. The Assembly was prepared to assist financially. According to Dickson and Edmond, the Assembly resolved

1. Ibid. p. 266.
2. Although there is only a blank in the minutes where the author and title ought to be, (B.U.K. p. 513) it is fairly certain that this was the book to which reference was made. (Reid, Divinity Principals, pp.97-8). Quite a number of books written by Hyperius were translated and published in England between 1572 and 1587, but none in Scotland.
3. B.U.K. p. 513.



in December, 1562, 'for the printing of the psalms, the Kirk lent Rob. Lickprivick, printer, twa hundreth pounds, to help to buy irons, ink and papper, and to sie craftesmen for printing.'<sup>1</sup> In the previous year, he printed an edition of the Scots Confession along, with two other religious books.<sup>2</sup> Forme of prayers and ministration of the Sacraments, .... vsed in the English Churche at Geneua must have been printed almost immediately after the passing of the Act of Assembly of 1562.<sup>3</sup>

The State also assisted him and assured him of a nation wide market by issuing a letter under the Privy Seal, on 22nd March, 1565, authorising him to print Acts of Parliament and the Psalms in metre.<sup>4</sup> Although for a time this was revoked in so far as it concerned the printing of Acts of Parliament,<sup>5</sup> he was appointed King's printer in January, 1568 and granted a monopoly for twenty years.<sup>6</sup> Three months later he was given the sole licence to print the Genevan version of the Bible also for twenty years.<sup>7</sup> He was not in a position to

1. op. cit. p. 199.

2. Aldis, List. No. 31 and Nos. 30 and 33.

3. Ibid. No. 35 dated 1562.

4. Register of the Privy Seal. vol. v. No. 1987. This was re-enforced on 8th February, 1566. Ibid. vol. v. No. 2615.

5. Ibid. vol. v. No. 2869.

6. Printed in Dickson and Edmond, op. cit. pp. 201-2.

7. Ibid. p. 202.

undertake this work immediately, for he applied for financial support to the General Assembly of March, 1569 probably in the hope of acquiring the equipment necessary to publish an edition of the Bible. The Assembly decided that the 'Kirk having respect to his povertie, the great expensses he hes made in buying of printing yrnes, and the great zeale and love he beares to serve the Kirk at all tyme, hes assignit to him fiftie punds, to be yearlie payit out of the Thirds ....' This was paid to him after this date by the collectors of the Thirds of Benefices.<sup>2</sup>

Lekprevik never attempted to print a Bible but he was of great service to the Church in printing much which was essential for the instruction of the people in the faith. As well as various tracts and catechisms,<sup>3</sup> his most important contribution was the printing of the Genevan Service Book in 1562, the Book of Common Order in 1564 and 1565 and Bishop John Carswell's Gaelic translation published in 1567.<sup>4</sup>

1. B.U.K. p. 164.

2. Paid at least until 1572. Thirds of Benefices. p. 297.

3. For a list of his publications cf. Didson and Edmonds. op. cit. pp. 207-72.

4. For details of these and later editions. cf. W. Cowan, A Bibliography of the Book of Common Order and Psalm Book of the Church of Scotland. 1556-1644. Edinburgh, 1913.

In 1574, he was imprisoned and his property confiscated under the Act of Parliament of 1551 which stated 'That .... na Prenter .... print ony buikes ..... unto the time the samin be seene, viewed and examined be some wise and discreet persons, depute therto be the Ordinares quhat-sum-ever. And therafter ane licence hed and obtained fra our Soveraine Ladie, and the Lord Governour, for imprenting of sik buikes, under the paine of confiscation of all the Prenters gudes, and banishing him of the Realme for ever.'<sup>1</sup> The continued use of an Act, originally framed to counteract anti-Roman Catholic books and similar material, against a post-reformation printer for a totally different offence is interesting. The book which caused all the trouble was John Davidson's Ane dialog or mutual talking betuix a clerk and ane Cortecour concerning four Parische Kirks till ane Minister.<sup>2</sup> Lekprevik printed little after his release from prison.<sup>3</sup> The Assembly of March 1574 had been involved in this matter and found no fault with the book<sup>4</sup>

1. A.P.S. vol. ii. p. 489.

2. Aldis, op. cit. No. 124. For an account of this case cf. R.M. Gillon, John Davidson of Prestonpans. Edinburgh, 1936. pp. 42-51, Dickson and Edmond, op. cit. pp. 205 and 270-1.

3. Dickson and Edmond, Ibid. p. 271.

4. B.U.K. pp. 289-90.



although a work written by John Rutherford in reply to it gave rise to difficulties.<sup>1</sup>

In August of the same year, its interest in printing was again shown by the Assembly when it learned 'be credible report' that 'a French printer of the best renowned thes day, nixt Henrious Stephanus being banished with his wife and family from his countrey, hath offered unto them to come in Scotland, and to bring with him three thousand franks worth of books, and to print whatscever work he should be commanded; it so much that there sould not be a book printed in French or Allmain, but once in the year it should be gotten of him, if he might have sure provision of a yearly pension of three hundred merk; which indeed is ane offer so comfortable to the countrey and Kirk that it ought not to be overseen.'<sup>2</sup> The matter was remitted to the Regent that 'his Grace will consider the same offer, and take order therewith.'<sup>3</sup> The printer alluded to in this overture to the Regent was Andreas Wechel who had moved from Paris to Frankfort during the previous year.<sup>4</sup> The

1. Ibid. pp. 297-8.

2. B.U.K. p. 306.

3. Ibid.

4. Allgemeine Deutsche Biographie. Leipzig, 1896. vol. 41. p. 366.

Regent did nothing about this and Wechel never came to Scotland.

The next year, in March, 1575, the General Assembly were again concerned with the possibility of increasing the production of the printers and for the first time thought seriously about arranging for the printing of the Genevan version of the Bible in Scotland. This was the result of an approach made to the Assembly by Alexander Arbuthnot and Thomas Bassandyne.

This Assembly and the publishers fixed the price of the Bible which was to be £4:13:4 scots and the printer agreed to keep to the 'volum and character of the said Proofs delivered to the Clerk of the Assembly.' To ensure that an accurate text was used the Assembly promised to deliver to the printers, by the end of April, 'the authentic copy' which they were to follow. The Assembly appointed a committee of six or any three of them to prepare the copy for the printers. 'For the advancement of the godly and necessary work and furetherance thereof,' the bishops, superintendents and commissioners for visiting churches 'faithfully bound and obliged them and every one of them, That they shall

1. B.U.K. p. 329 gives the names of the committee.

travell and do their utter and exact diligence for purchasing of such advancement as may be had and obtained within every one of their jurisdictions, at the hands of the Lords, Barrons and Gentlemen of every paroch; as also with the whole Burrows within the same; and sall try what every burgh will contribute to the said work, to be recompensed again in the books in the prices foresaid.' They were also appointed to act as collectors of advanced subscriptions and to keep the lists of subscribers both of which were to be sent to Arbuthnott and Bassandyne before 30th April, 1576. It was further decreed 'That every person that is provided of old as well as of new, be compelled to by a bible to thair paroch kirk, and to advance therefore the price foresaid, and the said prices to be collected and inbrought be said Bishops, Superintendents and Visitors within each bounds and shire within their jurisdiction, betwixt and the last day of June.' As it was necessary to have the support of the State in this matter a deputation was sent to the Privy Council to ask for an Act of Council and for the granting of the privilege of printing the Bible to Bassendyne and Arbuthnott



The Privy Council passed an Act accordingly on 8th March, 1575.<sup>1</sup>

The printers planned to have the Bible published within a year<sup>2</sup> but they were still at the stage of proof-correcting when another communication was sent by them to the General Assembly of August, 1575 requesting that it would ask Robert Pitcairn, commendator of Dunfermline to allow his servant, George Young to do the correcting. They also indicated to the Assembly that the money was not forthcoming as had been planned and it was requested 'to command and charge every Ordinar within his jurisdiction, to put the said letters to due execution, and make (the printer) to be payed, conform to the tenor of the same, whereby the godly interprise of the samine may take full effect with expedition.' The situation seems to have been particularly unsatisfactory in Orkney and the Assembly was asked to do something about this. The Assembly agreed to approach Pitcairn and 'as concerning the rest, willingly condescends to the same.'<sup>3</sup>

Difficulties still hindered the printing. The person who

1. Wodrow, Collections upon the lives of the Reformers. vol. i. p. 214.

The privilege was extended to protect them against imported Bibles on 30th June, 1576. Dickson and Edmond, op. cit. pp. 282-83.

2. B.U.K. p. 32.

3. Ibid. pp. 346-7.

as surety died and there were difficulties over staff. It was therefore necessary on 18th July, 1576 to make another application to the Privy Council to ask for nine months extension from the original date when they had promised to complete the work.'

The New Testament was eventually completed in 1576 before Bassendyne's death on 18th October, 1577.<sup>2</sup> They did not achieve publication of the Bible due in all probability to differences which had arisen between them during the last year of Bassandyne's life.<sup>3</sup>

In anticipation of the publication of the Bible, Arbuthnot presented to the General Assembly in July, 1579, a draft of what eventually appeared as 'To the Richt Excellent Richt heich and Michtie Prince Iames the Sext King of Scottis', prefixed to the Bible, Consideration of this was remitted to Thomas Smeaton, Moderator and his assessors.<sup>4</sup> They also had to look over the Calender which was

1. R.P.C. vol. ii. pp. 544-6.

2. D. Laing, 'Collection of the Wills of Printers and Booksellers in Edinburgh between the years 1577 and 1687' in The Bannatyne Miscellany. Bannatyne Club. Edinburgh, 1836. vol. ii. p. 191.

3. R.P.C. vol. ii. p. 582.

4. B.U.K. p. 427 gives the names of the assessors.

presented by Robert Pont for inclusion in the volume.<sup>1</sup>

The Bible was published after 24th August when Arbuthnot was made the King's Printer, as this designation appeared on the title-page and probably before the Parliament which met on 20th October and passed an Act which lowered the value of property which made a householder liable to have a Bible in his possession.<sup>2</sup> Town councils did what they could to enforce this Act of Parliament<sup>3</sup> but it is probable that in country districts it had to be enforced by the superintendents or commissioners for the visiting of churches as they had been empowered to do some months before.<sup>4</sup>

Arbuthnot experienced difficulty in fulfilling his contract to supply all the Bibles which had been paid for in advance. At the tenth session of the Assembly of 1580, among the Articles to be

1. Ibid. Pont was interested in this subject as shown by the publication in 1599 of his book 'A Newe Treatise of the Right Reckoning of Yeares ..... and reformations of Kalenders ..... Aldis, List.No. 313.
2. A.P.S. vol. iii. p. 139.
3. E.g. this is illustrated by the enactments of the town council of Edinburgh. Edin. Burgh Records. vol. iv. pp. 184 and 187.
4. R.P.C. vol. iii. p. 266.



'proponit to his Majestie and Counsall,' 'That ordour may be takin with Alexander Arbuthnot, that the Bybles may be delyverit according to his receipt of money from every paroch; and to that effect, that he and his soverties may be commandit be letters of horneing for delyverance therof; and no suspension to be grantit without the samein be delyverit.' This probably had an effect on his production as there is no further reference to this matter. He died on 1st September, 1585.<sup>2</sup>

Among the Articles presented by the Assembly to the King and Council, to which reference has already been made, probably due to the dilatariness and inaccurate work of Arbuthnot, narrated that 'Because ther is great necessitie of a printer within this countrey, and ther is a stranger banischit fro religioun, callit Vautrolier, quho offer to imploy his labour in the said vocation, for the weill of the country, it will please your Grace and Counsell to take ordour heirin, as your Grace thinks meit; and to give licence and priviledge to him for that

1. B.U.K. p. 462.

2. D. Laing, op. cit. p. 207.

effect, if it salbe thoct expedient be your Grace and Councell.<sup>1</sup>

Vautrollier, who had been in Edinburgh since, at least, the spring of that year,<sup>2</sup> had lived in England since 1564<sup>3</sup> and had experienced difficulties there due to printing without a licence.<sup>4</sup> The quality of his work was known to the court before this request was addressed to it<sup>5</sup> and he was commended personally to George Buchanan.<sup>6</sup>

During his stay in Scotland, which was probably of about eighteen month duration, he does not appear to have been permitted to commence printing in spite of the appeal made on his behalf by the Assembly although he was able to act as a bookseller.<sup>7</sup> He

1. B.U.K. p. 462.

2. Edinb. Burgh Records. vol. iv. p. 158.

3. Dickson and Edmond, op. cit. p. 377.

4. Ibid. p. 378.

5. Some books had been bought from him by the king and paid for in March, 1579. (Ibid. p. 380.) Although there is a list of the books which were in the library of James VI ('The Library of James VI' (edited with intro. and notes by G.F. Warner) in Miscellany of the Scottish History Society, Edinburgh, 1893. vol. i. pp. xi-lxxv) it is not now possible to identify these volumes.

6. D. Irving, Memoirs of the Life and Writings of George Buchanan. (2nd edition) Edinburgh, 1817. p. 253.

7. Edinburgh Burgh Records. vol. iv. p. 158.

returned to London where his wife had managed his business during his absence. In the spring of 1583, he came back to Scotland having again incurred the displeasure of the authorities in England.<sup>1</sup> He was successful in establishing himself as a printer in Edinburgh and in 1584 printed six volumes including Henry Balnaves' The Confession of Faith ...<sup>2</sup> and in 1585 one of the two volumes printed was An Abridgement Of The Institvtion of Christian Religion written by M Ihon Caluin.<sup>3</sup> He returned again to London early in the following year taking with him a manuscript of Knox's History of the Reformation in Scotland which he planned to print and publish there. Before the work was completed his stock of sheets already printed were seized and the book was never finished.<sup>4</sup>

The Assembly did not attempt to assist any printer after the departure of Vautrollier.

1. J. Ames. Typographical Antiquities (ed. W. Herbert) London, 1785-90. p. 1065.
2. The text of this book, with a facsimile titlepage, is reprinted in Knox, Works, vol. iii. pp. 431-542.
3. Aldis, List. No. 198.
4. cf. Laing, Knox's History, vol. i. pp. xxii and xxxix-xlii.



## Bibliography.

## Bibliographies, Guides etc.

- Aldis, H.G. A List of Books printed in Scotland before 1700. Edinburgh, 1904.
- Bainton, R.H. Bibliography of the Continental Reformation. American Church History Society, 1935.
- Burns, T. 'Detailed information as to the Records of (I.) The General Assembly, (II.) Synods, (III.) Presbyteries and (IV.) Kirk Sessions' in Church Property. The Benefice Lectures. Edinburgh, 1905. pp. 193-268. (Note should be taken of 'Appendix D. The Records of the Church.' in Reports to the General Assembly. 1961. Edinburgh, 1961. p. 33.)
- Carlyle, A.J. Bibliography of Political Theory. London, 1916.
- Dowan, W. A Bibliography of the Book of Common Order and Psalm Book of the Church of Scotland. 1556-1644. Edinburgh, 1913.
- Donaldson, G. 'Sources for the study of Scottish Ecclesiastical organisation and personnel 1560-1600.' in Bulletin of the Institute of Historical Research. London, 1944. vol. xix. pp. 188-203.
- Elliot, N. Report on the Records of the Church of Scotland. Edinburgh, 1892.
- Poster, J. Members of Parliament Scotland. 1357-1882. Second edition. London, 1882.
- Livingstone, M. A Guide to the Public Records of Scotland. Edinburgh, 1905.

- Muir, J. and P.J. Anderson. 'Inventories of Ecclesiastical Records of North-Eastern Scotland. 1560-1890'. in Miscellany of the New Spalding Club. Aberdeen, 1890. vol. i. pp. lv-lxii and 163-356.
- Niesel, W. Calvin-Bibliographie. 1901-1952. Munich, 1961.
- Reid, C. Bibliography of British History, Tudor Period, 1485-1603. Second edition. Oxford, 1959.
- Schottenloher, K. Bibliographie zur deutschen Geschichte im Zeitalter der Glaubensspaltung. 1517-1585. Stuttgart, 1958. 6 vols.
- Skene, J. De Verborum Significatione. Edinburgh, 1597.
- Stephen, L. and S. Lee. Dictionary of National Biography. London, 1885-1904. 68 vols.
- Thomson, J.M. The Public Records of Scotland. Glasgow, 1922.

# Contemporary Documents and Records.

- The Accounts of the Collectors of Thirds of Benefices. Edited by G. Donaldson. S.H.S. Edinburgh. 1949.
- Accounts of the Lord High Treasurer of Scotland. vols. ix-xi. Edited by J. Balfour Paul. Edinburgh. 1911-16.
- Acts and Proceedings of the General Assemblies of the Kirk of Scotland from the year MDLX. Edited by T. Thomson. Bannatyne and Maitland Clubs. Edinburgh, 1839-45.
- Acts of General Assembly of the Church of Scotland. 1638-1842. Edited by T. Pitcairn and others. Edinburgh, 1843.
- The Acts of Parliament of Scotland. Edited by T. Thomson and C. Innes. Edinburgh, 1814-75. vols. 1-4 and Index.
- Ancient Laws and Customs of the Burgh of Scotland. vol. i. A.D. 1124-1424. Edited by C. Innes. Scottish Burgh Record Society. Edinburgh, 1868.
- Ayr Burgh Accounts. 1534-1624. Edited by G.S. Pryde. S.H.S. Edinburgh, 1937.
- The Book of Discipline, in John Knox's History of the Reformation in Scotland. Edited by W.C. Dickinson. Edinburgh, 1949. vol. ii. pp. 280-325.
- The Buik of the Kirk of the Canagait. 1564-67. Edited by A.B. Calderwood. Scottish Record Society. Edinburgh, 1961.
- Calendar of Patent Rolls. Philip and Mary. London, 1937-39. 4 vols.
- Calendar of State Papers, Foreign. Elizabeth. Edited by various editors. London, 1863-1950. 23 vols.
- Calendar of the State Papers relating to Scotland. 1509-1603. Edited by M.J. Thorpe. London, 1858. 2 vols.



- Charters and Documents relating to the Burgh of Peebles with extracts from the Records of the Burgh. 1165-1710. Edited by W. Chambers. Scottish Burgh Record Society. Edinburgh, 1872.
- Chronicles of the Reigns of Edward I and Second. Edited by W. Stubbs. Rolls Series. London, 1882-3. 2 vols.
- Collectio Confessionum in Ecclesiis reformatis Publicatorum. Edited by H.A. Niemeyer. Leipzig, 1840.
- Concilia Germaniae. Edited by J.F. Schannat and others. Cologne, 1759-90. 11 vols.
- Concilia Magnae Britanniae et Hiberniae. Edited by D. Wilkins. London, 1737. 4 vols.
- Concilia Poloniae. Edited by J. Sawicki. In course of publication.
- Councils and Ecclesiastical Documents. Edited by A.W. Haddan and W. Stubbs. Oxford, 1869-73. 3 vols.
- Corpus Juris Canonici. Edited by E. Friedberg. Second edition. 1876-82. re-issued 1955. 2 vols.
- The Court Book of the Barony of Carnwath. 1523-1542. Edited by W.C. Dickinson. S.H.S. Edinburgh, 1937.
- Discipline or Book of Order of the Reformed Church of France. Translated from the Orleans edition of 1675 by M.G. Campbell. London, 1924.
- Documents Illustrative of the Continental Reformation. Edited by B.J. Kidd. Oxford, 1911.
- Early Records of the University of St. Andrews. Edited by J.M. Anderson. S.H.S. Edinburgh, 1926.

Edinburgh Records: The Burgh Accounts. Edited by R. Adam. Edinburgh, 1899. 2 vols.

Die Evangelischen Kirchenordnungen des sechszehnten Jahrhunderts. Urkunden und Regesten zur Geschichte des Rechts und der Verfassung der evangelischen Kirche in Deutschland. Edited by A.L. Richter. Leipzig, 1871. 2 vols.

Extracts from the Council Register of the Burgh of Aberdeen. Edited by J. Stuart. Spalding Club. Aberdeen, 1844-8. 2 vols.

'Extracts from the Buik of the General Kirk of Edinburgh' in Miscellany of the Maitland Club. Edited by A. Macdonald and J. Dennistoun. Edinburgh. 1833. vol. i. pp. 97-126.

Extracts from the Records of the Burgh of Edinburgh. Edited by J.D. Marwick. Scottish Burgh Record Society. Edinburgh. 1869-82. 4 vols. General Index to the foregoing. Edinburgh, 1892.

Extracts from the Records of the Burgh of Glasgow. Edited by J.D. Marwick. Scottish Burgh Record Society. Glasgow, 1878. vol. i.

Facsimiles of the National Manuscripts of Scotland. Photozincographed by H. James. Edinburgh, 1867-73. 3 parts.

Fasti Aberdonenses, Selections from the Records of the University and King's College of Aberdeen. Edited by C. Innes Spalding Club. Aberdeen, 1854.

Historical notices of St Anthony's Monastery, Leith etc. Edited by C. Rogers. Grampian Club. London, 1877.

'The Instructiounis gevin to the Commissaris of Edinburgh. Anno Domini. 1563.' in J. Balfour, Practicks: Or a System of the most Ancient Law of Scotland. Edinburgh, 1754. pp. 655 et seq.

- Letters and Memorials of Cardinal Allen. Edited by T.F. Knox. London, 1882.
- Letters and State Papers relating to English Affairs, preserved principally  
in the Archives of Simancas. Elizabeth. Edited by  
M.A.S. Hume. London, 1892-99. 4 vols.
- Liber collegii nostre Domine. Edited by J. Robertson. Maitland Club.  
Glasgow, 1846.
- Liber Officialis Sancti Andree. Abbotsford Club. Edinburgh, 1845.
- Liber S. Thome de Aberbrothoc. Edited by C. Innes and P. Chalmers.  
Bannatyne Club. Edinburgh. 1848-56. 2 vols.
- 'Lord Chancellor Glamis and Theodore Beza'. Edited by G. Donaldson in  
Miscellany of Scottish History Society. Edinburgh,  
1951 vol. viii. pp. 89-113.
- Mary Queen of Scots and the Babington Plot. Edited by J.H. Pollen. S.H.S.  
Edinburgh, 1922.
- Matthaei Parisiensis Chronica Majora. Edited by H.R. Luard. Rolls  
Series. London, 1872-84. 7 vols.
- Memorials of the Earls of Haddington. Edited by W. Fraser. Edinburgh,  
1889. 2 vols.
- Memorials of the Montgomeries, Earls of Eglinton. Edited by W. Fraser.  
Edinburgh. 1859. 2 vols.
- Munimenta alme universitatis Glasguensis. Edited by C. Innes. Maitland  
Club. Glasgow, 1854. 3 vols.
- Obit Book of the Church of St. John the Baptist. Ayr. Edited by J.  
Paterson. Edinburgh, 1848.
- The old Minute Book of the Faculty of Procurators in Glasgow. 1668-1758.  
Edited by J.S. Muirhead. Glasgow, 1948.



Patrologiae cursus completus, series Latina. Edited by J.P. Migne.  
Paris, 1844-64. various volumes.

Records of the Conventions of the Royal Burghs of Scotland. Edited by  
J.D. Marwick. Edinburgh, 1870. vols. i and ii.

Records of the Sheriff Court of Aberdeenshire. Edited by D. Littlejohn.  
New Spalding Club. Aberdeen, 1904-7. 3 vols.

The Register of Bishop Godfrey Gifford (1268-1301). Edited by. J.W.  
Willis-Bund. Worcestershire Historical Society.  
Oxford, 1898-1902. 2 vols.

The Register of Charles Bothe, Bishop of Hereford (1516-35). Edited by  
A.T. Bannister. Cantilupe Society. Hereford, 1921.

Register of Minister, Elders and Deacons of the Christian Congregation of  
St Andrews. 1559-1600. Edited by D. Hay Fleming.  
S.H.S. Edinburgh, 1889-90. 2 vols.

The Register of the Privy Council of Scotland. vols. i and ii, edited  
by J.H. Burton and vol. iii et seq. edited by D.  
Masson. Edinburgh. 1877-84. vols. i-vi. and Addenda  
1545-1625. Edited by D. Masson. Edinburgh. 1898.  
vol. xiv.

The Register of the Privy Seal of Scotland. Edited by G. Donaldson.  
Edinburgh, 1957. vol. v.

Registrum Episcopatus Aberdonensis. Edited by C. Innes. Maitland and  
Spalding Clubs. Edinburgh, 1845. 2 vols.

Registrum Episcopatus Glasguensis. Edited by C. Innes. Bannatyne Club.  
Edinburgh, 1843. 2 vols.

Registrum Episcopatus Moraviensis. Edited by C. Innes. Bannatyne Club.  
Edinburgh, 1837.

- Registrum Epistolarum Fratris Johannis Peckham, archiepiscopi Cantuariensis.  
 Edited by C.T. Martin. Rolls Series. London, 1882-6.  
 3 vols.
- Registrum Ludowici de Charlton, Episcopi Herefordensis. A.D. MCCCLXI-MCCCLXX. Edited by J.H. Parry. Cantilupe Society.  
 London, 1914.
- Registrum Magni Sigilli Regum Scotorum. Edited by J.M. Thomson.  
 Edinburgh, 1886-90. vols. iv-vi.
- Report on Manuscripts in Various Collections. Historical Manuscripts Commission. Hereford, 1909. vol. v.
- Rotuli Letterarum Clausarum. Edited by T.D. Hardy. London, 1833. vol. i.
- Sacra Concilia Ecclesiae Romano-Catholicae in Regno Hungariae. Edited by C. Péterffy. Vienna, 1742. 2 parts.
- Scotland and the Commonwealth. Edited by C.H. Firth. S.H.S.  
 Edinburgh, 1895.
- Scots Confession, 1560 and Negative Confession, 1581. Edited by G.D. Henderson. Edinburgh, 1937.
- The Second Book of Discipline in B.U.K. pp. 488-512.
- Selected Cases from Acta Dominorum Concilii et sessionis. 1532-33.  
 Edited by I.H. Shearer. Stair Society. Edinburgh, 1951.
- Select Charters and other illustrations of English Constitutional History.  
 Edited by W. Stubbs. Oxford, 1900.
- Selections from unpublished manuscripts in the College of Arms and the British Museum illustrating the reign of Mary Queen of Scotland. MDXLIII-MDLXVIII. Edited by J. Stevenson. Maitland Club. Glasgow, 1837.

Selections of Records of Kirk Session, Presbytery and Synod of Aberdeen.

Edited by J. Stuart. Spalding Club. Aberdeen, 1846.

The Sheriff Court Book of Fife. 1515-22. Edited by W.C. Dickinson.

S.H.S. Edinburgh, 1928.

State Papers and Letters of Sir Ralph Sadler. Edited by A. Clifford.

Edinburgh, 1809. 2 vols.

The Statutes of the Faculty of Arts and the Faculty of Theology at the  
period of the Reformation. Edited by R.K. Hannay.

St Andrews, 1910.

The Statutes of the Realm. London, 1819. vol. iv.

Statuta Ecclesia Scoticanæ (Concilia Scotiæ). Edited by J. Robertson.

Bannatyne Club. Edinburgh, 1846.

Statutes of the Scottish Church. 1225-1559. Edited by D. Patrick.

S.H.S. Edinburgh, 1907.

The Sutherland Book. Edited by W. Fraser. Edinburgh, 1892. 3 vols.

Synodicon in Gallia Reformata: or the Acts, Decisions, Decrees, and Canons  
of those Famous National Councils of the Reformed  
Churches in France. The whole Collected and  
Composed out of Original Manuscript Acts of those  
Renowned Synods. By J. Quick. London, 1692.

2 vols.



Contemporary or near contemporary narrative sources, literary works and polemical writings.

Advocates of Reform from Wyclif to Erasmus. Edited by M. Spinka. London, 1953.

An Apologetical Narrative of the state and government of the Kirk of Scotland since the Reformation: By William Scot. Edited by D. Laing. Wodrow Society. Edinburgh, 1846.

Aquinas - Select Political Writing. Edited by A. P. D'Entreves. Oxford, 1948.

The Autobiography and Diary of Mr. James Melvill. Edited by R. Pitcairn. Wodrow Society. Edinburgh, 1842.

Theodore Beza, Tractatio de Repudius et Divortius. Daventry, 1651.

Mr. George Buchanans Opinion anent the Reformation of the Universitie of St Andros' in Bannatyne Club Miscellany. Edinburgh, 1836. vol. ii. pp. 87-100.

Henry Bullinger, Decades. Edited by T. Harding. Parker Society, 1849-52. 4 vols.

Ioannis Calvini Opera in Corpus Reformatorum. Edited by G. Baum, E. Cunitz and E. Reuss. Brunswick, 1869-96.

John Calvin Commentaries, 46 vols. Institutes of the Christian Religion. 3 vols. and Tracts. 3 vols. Calvin Translation Society. Edinburgh, 1843 et seq.

The Correspondence of the Rev. Robert Wodrow. Edited by T. Mc. Crie. Wodrow Society. Edinburgh, 1842-3. 3 vols.

Diary of Sir Archibald Johnston of Warison, 1632-1639. Edited by G.H. Paul. S.H.S. Edinburgh, 1911.

A Duirnal of Remarkable occurrents that have passed within the Country of Scotland since the Death of King James the Fourth till the year 1575. Edited by T. Thomson. Bannatyne and Maitland Clubs. Edinburgh, 1883.

Early Letters of Robert Wodrow. Edited by L.W. Sharp. S.H.S. Edinburgh, 1937.

The First Book of the Irenicum of John Forbes of Corse. Edited by E.G. Selwyn. Cambridge, 1923.

John Gerson, Opera Omnia. Antwerp, 1706. 2 vols.

Christopher Goodman, How Superior Powers Oght to be Obeyd. Reproduced from the 1558 edition with a bibliographical note by C.H. McIlwain. New York. Facsimile Text Society, 1931.

John Hamilton, Ad Amplissimum Senatum. Paris, 1586.

A History of Greater Britain by John Major. Translated and edited by A. Constable. S.H.S. Edinburgh, 1892.

The History of Scotland from the Death of King James I to the year 1561. by John Lesley, Bishop of Ross. Edited by T. Thomson. Bannatyne Club. Edinburgh, 1830.

History of the affairs of Church and State in Scotland, from the beginning of the Reformation to the year 1568. by the Right Rev. Robert Keith. Edited by J.P. Lawson. Spottiswoode Society. Edinburgh, 1844-50. 3 vols.

The History of the Church of Scotland, by John Spottiswoode. Edited by M. Russell. Spottiswoode and Bannatyne Clubs. Edinburgh, 1850. 3 vols.

The History of the Kirk of Scotland, by Mr David Calderwood. Edited by T. Thomson (vols. i-vii) and D. Laing (vol. viii) Wodrow Society. Edinburgh, 1842-49. 8 vols.

History of the Kirk of Scotland, from the Year 1558 to August, 1637 by John Row with the continuation to July, 1639 by his son John Row. Edited by D. Laing. Wodrow Society. Edinburgh, 1842.

The historie and life of King James the Sext: Being an account of the affairs of Scotland, from the year 1566, to the year 1596: with a short continuation to the year 1617. Edited by T. Thomson. Bannatyne Club. Edinburgh, 1825.

The History of the troubles and memorable transactions in Scotland and England, from MDCXXIV to MDCXLV. by John Spalding. Edited by J. Skene. Bannatyne, Maitland and Spalding Clubs. Edinburgh, 1828-29. 2 vols.

John Knox's History of the Reformation in Scotland. Edited by W.C. Dickinson. Edinburgh, 1949. 2 vols.

Joannis a Lasco Opera. Edited by A. Kuyper. Amsterdam, 1866. 2 vols.  
" Forma ac ratio tota ecclesiastici ministerii. in Edinburgh University Library. Press No. Dd. 6. 6.

The Letters and Journals of Robert Baillie. Edited by D. Laing. Bannatyne Club. Edinburgh, 1841-42. 3 vols.

Martin Luther, 'An den christlichen Adel deutscher Nation von des christlichen Standes Besserung. 1520' in Werke Kritische Gesamtausgabe. Weimar, 1883 et seq. vol. vi. pp. 381-469.

Macfarlane's Genealogical Collections concerning Families in Scotland. Edited by J.T. Clark. S.H.S. Edinburgh, 1899

Philip Melancthon, Articuli de quibus egerunt per visitatores in regione Saxoniae. Wittemberg, 1527.

" Unterricht der Visitatorn an die Parhern ym



Kurfurstenthum zu Sachssen. Wittenberg, 1528.

(The foregoing were both edited as The Visitation of the Saxon Reformed Church in the years 1527 and 1528 with an introduction by R. Laurence. Dublin, 1839.)

Memoirs of Mr William Veitch, and George Brysson. Edited by T. McCrie. Edinburgh, 1825.

The Miscellany of the Wodrow Society. Selected and edited by D. Laing. Edinburgh, 1844. vol. i.

Original Letters relative to the English Reformation. Translated and edited by H. Robinson. Parker Society. Cambridge, 1846.

The Political Works of James I. Edited with an introduction by C.H. McIlwain. Cambridge. Mass, 1918.

Sage, J. The Fundamental Charter of Presbytery. London, 1695. reprinted in the Works of the Right Rev. John Sage. Spottiswoode Society. Edinburgh, 1846. vol. i.

Sanchez, T. Disputationem de Sancto Matrimonio Sacramento. Antwerp, 1652.

Scholae in Liberales Artes. Basel, 1578.

Select Biographies. Edited by W.K. Tweedie. Wodrow Society. Edinburgh, 1845. vol. i.

The Works of John Knox. Collected and edited by D. Laing. Edinburgh, 1846-64. 6 vols.

Winzet, Niniane. Certane tractatis for reformatioun of doctryne and maneris in Scotland. MDLXII-MDLXIII. With preface by D. Laing. Maitland Club. Edinburgh, 1835.

The Zurich Letters and The Zurich Letters (Second Series). Translated and edited by H. Robinson. Parker Society. Cambridge, 1842, 1845.

## Secondary Authorities.

- Ainslie, J.L.      The Doctrines of the Ministerial Order in the Reformed Churches of the 16th and 17th Centuries. Edinburgh, 1940.
- Allen, J.W.      A History of Political Thought in the Sixteenth Century, London, 1928.
- Althaus, P.      'Luthers Lehre von den zwei Reichen im Feuer der Kritik' in Lutherjahrbuch 24. 1957. pp. 48-68.
- Artonne, A.      'Les statuts synodaux diocésains français, du XIIIe siècle au concile de Trente' in Revue d'histoire de l'Eglise de France. 1950. pp. 168-81.
- Baldwin, J.F.      The King's Council in England during the Middle Ages. Oxford, 1913.
- Balfour, J.      Practicks: or a System of the more Ancient Law of Scotland. Edinburgh, 1754.
- Barclay, W.      De Regno et Regula Potestate adversus Buchananum, Brutum, Boucherium et reliquos Monarchomacos. Paris, 1600
- Barry, J.C.      'William Hay of Aberdeen, a Sixteenth Century Scottish Theologian and Canonist' in Innes Review. vol. ii. pp. 82-99.
- Bellesheim, A.      History of the Catholic Church of Scotland. Translated, with notes and additions, by O. Hunter Blair. Edinburgh, 1887. 4 vols.
- Berbig, G.      'Die erste Kursächsische Visitation in Ortsland Franken' in Archiv für Reformationsgeschichte 1905-6, 1906-7. vol. iii. pp. 336-402 and vol. iv. pp. 370-408.

- Berkhof, H. Kirche und Kaiser. Zurich, 1947.
- Binns, L.E. Erasmus the Reformer. London, 1923.
- Blackwood, A. Aversus Georgii Buchanani Dialogum de Jure Regni apud Scotos, pro Regibus Apologia. Poitiers, 1581.
- Bönhoff. 'Die sächsischen Landeskirchen und die Visitation des Jahres 1539' in Beiträge zur sächsischen Kirchengeschichte, 1929. vol. xxxviii. pp. 8-48.
- Borgeand, C. 'Cartwright and Melville at the University of Geneva 1569-1574' in American Historical Review. New York, 1900. vol. v. pp. 284-90.
- Brown, P.H. George Buchanan. Humanist and Reformer. Edinburgh, 1890.
- John Knox. A Biography. London, 1895. 2 vols.
- History of Scotland. Cambridge, 1911. 3 vols.
- Brown, W.E. 'The Reformation in Scotland' in European Civilisation, its Origin and Development. Edited by E. Eyre. London, 1936. vol. iv. pp. 489-560.
- Brunton, G and Haig, D. An Historical Account of the Senators of the College of Justice from its Institution in MDXXXII. Edinburgh and London, 1832.
- Burns, J.H. 'The Political Ideas of the Scottish Reformation' in Aberdeen University Review. Aberdeen, 1955-56. vol. xxxvi. pp. 251-68.
- 'John Knox and Revolution 1558' in History Today. 1958. vol. viii. pp. 565-573.
- 'The Political Background to the Reformation, 1513-1625' in Innes Review, Glasgow, 1959. vol. x. pp. 199-236.



- Burton, J.Hill. The History of Scotland. Edinburgh, 1897. 8 vols.
- Cant, R.G. University of St Andrews. Edinburgh, 1946.  
The College of St Salvator. Edinburgh, 1950.
- Carlyle, A.J. and J.W. The History of Medieval Political Theory in the West. Edinburgh and London, 1903-28. 5 vols.
- The Case of the University of Edinburgh with respect to their Right of choosing a member to the General Assembly. By an Alumnus of the University of Edinburgh and a Well-wisher to the Church of Scotland. Edinburgh, 1723.
- Cheney, C.R. English Synodalia of the Thirteenth Century. London, 1941.
- Choisy, E. Théocratie à Genève au temps de Calvin. Geneva, 1897.  
L'État Chrétien Calviniste à Genève au temps de Théodore de Bèze. Geneva and Paris. n.d.
- Clarke, M.V. Medieval Representation and Consent. London, 1936.
- Congar, M.J. 'Quod omnes tangit, ab omnibus tractari et approbari debet' in Revue historique de droit français et étranger. 1958. pp. 210-257.
- Cooper, J. 'Superintendents and Bishops in the Church of Scotland, 1560-1610' in Historical Papers submitted to the Christian Unity Association of Scotland by its Special Committee. 1911-1913. Edinburgh, 1914.
- Cooper, Lord. The Dark Age of Scottish Legal History, 1350-1650. Glasgow, 1952.
- Coulton, G.G. Scottish Abbeys and Social Life. Cambridge, 1933.  
Medieval Panorama. Cambridge, 1938.

- Cox. J.T. (ed). Practice and Procedure in the Church of Scotland. Fourth edition. Edinburgh. 1948.
- Cunningham. J. The Church History of Scotland. First edition. Edinburgh. 1859. Second edition. Edinburgh. 1882.
- Dakin. A. Calvinism. London. 1940.
- Davidson. A.B. Epistle to the Hebrews. Edinburgh. n.d.
- Dickson. R. and J.P. Edmonds. Annals of Scottish Printing. Cambridge. 1890.
- Donaldson. G. 'The Scottish Episcopate at the Reformation' in the English Historical Review. vol. lx. pp. 349-64.  
 'The Example of Denmark' in S.H.R. vol. xxvii. pp. 57-64.  
 'Alexander Gordon, Bishop of Galloway (1559-1575) and his work in the Reformed Church' in Transactions of the Dumfriesshire and Galloway Natural History and Antiquarian Society. Third Series. vol. xxiv. pp. 111-128.  
 'The Polity of the Scottish Church. 1560-1600' in Records of the S.C.H.S. vol. xi. pp. 212-26.  
 'The Church Courts' in Introduction to Scottish Legal History. Stair Society. Edinburgh. pp.363-373.  
 The Scottish Reformation. Cambridge. 1960.  
 'Adam Bothwell and the Reformation in Orkney' in Records of the S.C.H.S. vol. xiii. pp.85-100.
- Dowden. J. The Medieval Church in Scotland. Glasgow. 1910.  
 The Bishops of Scotland. Edited by J.M.Thomson. Glasgow. 1912.
- Dunkley. E.H. The Reformation in Denmark. London. 1948.
- Durkan. J. 'Education in the Century of the Reformation! in Innes Review. vol. x. pp. 67-90.

- 'Care of the Poor': Pre-Reformation Hospitals in Innes Review. vol. x. pp. 268-80.
- 'The Cultural Background to Sixteenth-Century Scotland' in Innes Review. vol. x. pp. 382-439.
- Durkan, J. and A. Ross 'Early Scottish Libraries' in the Innes Review. Glasgow, 1958. vol. ix. pp. 5-167. Published with additions as Early Scottish Libraries. Glasgow, 1961.
- Easson, D.E. 'The Medieval Church in Scotland and Education'. in Records of the S.C.H.S. vol. vi. pp. 13-26. Medieval Religious Houses: Scotland. London, 1957.
- Eastwood, C. The Priesthood of all Believers. London, 1960.
- Evidence ..... taken and received by the Commissioners ... for visiting the universities of Scotland. London, 1837. vol. iii.
- Edwards, J.D. 'The Plena Potestas of English Parliamentary Representatives'. in Oxford Essays in Medieval History presented to H.E. Salter. Oxford, 1934. pp. 141-154.
- Fairley, J.A. 'The Old Tolbooth, with Extracts from the Original Records' in the Book of the Old Edinburgh Club. vol. iv. pp. 75-144.
- Ferguson, J. Ecclesia Antiqua. Edinburgh, 1905.
- Fergusson, J. A treatise on the present state of consistorial law in Scotland. Edinburgh, 1829.
- Finker, H. von Vorlesung über den Römerbrief. Strassburg, 1908.
- Fleming, D. Hay. Mary Queen of Scots from her Birth to her Flight into England. London, 1897.
- Forbes-Leith, W. Narratives of Scottish Catholics under Mary Stuart and James VI. Edinburgh, 1885.



- Gillon, R.M. John Davidson of Prestonpans. Edinburgh, 1936.
- Gilson, E. Dante the Philosopher. London, 1952.  
History of Christian Philosophy in the Middle Ages. London, 1955.
- Grant, F.J. The Faculty of Advocates in Scotland. 1532-1943. Scottish Record Society. Edinburgh, 1944.
- Grant, J. History of the Burgh and Parish Schools of Scotland. London and Glasgow, 1876. vol. i.
- Graves, F.P. Peter Ramus and the Educational Reformation of the 16th Century. New York, 1912.
- Grub, G. An Ecclesiastical History of Scotland. Edinburgh, 1861. 4 vols.
- Hannay, R.K. 'General Council and Convention of Estates' in S.H.R. vol. xx. pp. 98-115.  
The College of Justice. Essays in the Institution and Development of the Court of Session. Edinburgh and Glasgow, 1933.
- Hefele, C.J. Histoire des Conciles. Translated with notes by H. Leclercq. Paris, 1907-28. vol. ii.
- Henderson, G.D. 'The Exercise' in the Records of the S.C.H.S. vol. vii. pp. 13-29.  
The Scottish Ruling Elder. London, 1935.  
The Founding of Marischal College Aberdeen. Aberdeen, 1947.  
Church and Ministry, London, 1951.  
'The Priesthood of all Believers' in Scottish Journal of Theology. Edinburgh, 1954. vol. vii. pp. 1-15.

- Holl, K.                      Gesammelte Aufsätze zur Kirchengeschichte. I: Luther. Sixth edition. Tübingen, 1932.
- Hudson, W.S.                John Ponet (1516? - 1556) Advocate of Limited Monarchy. Chicago, 1942.
- Hume, D. of Godscroft.    The History of the Houses of Douglas and Angus. Edinburgh, 1644 or London, 1820.
- Innes of Learney, T.      'The Scottish Parliament; its Symbolism and its Ceremonial' in Juridical Review. Edinburgh, 1932. vol. xlv. pp. 87-124.
- Isaac, F.                    'Egidius van der Erve and his English Printed Books' in The Library, London, 1932. 4th Series. vol. xii. pp. 336-352.
- Jacqueline, B.             Histoire des synodes du diocèse de Coutances antérieurs au concile de Trente' in Notices, mémoires et documents publiés par la Société d'archéologie et d'histoire naturelle du département de la Manche. vol. lx. fasc. 1.
- Jundt, A.                    Le Développement de la Pensée Religieuse de Luther-jusqu'en 1517. Paris, 1906.
- Kaweran, W.                'Die Reformation und die Ehe' in Schriften des Vereins für Reformationsgeschichte, 1892. vol. x.
- Kern, F.                    Kingship and Law in the Middle Ages. I. The Divine right of resistance in the early Middle Ages. (trans. with introduction by S.B. Chrimes). Oxford, 1939. King, Law and Constitution in the Middle Ages. (trans. S.B. Chrimes) Oxford, 1949
- Kerr, H.F.                  'The Old Tolbooth of Edinburgh' in the Book of the Old Edinburgh Club. vol. xiv. pp. 7-24.

- Kinder, E. Geistliches und weltliches Regiment Gottes  
Luther. 1940.  
'Gottesreich und Weltreich bei Augustin und bei  
Luther'. in Gedenkschrift für Werner Elert.  
1955. pp. 24-42.
- Knowles, D. The Episcopal Colleagues of Archbishop Thomas Becket.  
Cambridge, 1951.
- Kroon, S. Det Svenska prästmötet under medeltiden. Lund, 1948.
- Lagarde, G. de Recherches sur l'ésprit politique de la Reforme.  
Paris, 1926.
- Lamb, J.A. 'The Calendar of the Book of Common Order. 1564-1644.'  
in Records of the S.C.H.S. vol. xii. pp. 15-28.
- Law, T.G. Collected Essays and Reviews of, edited by P.H.  
Brown. Edinburgh, 1904.
- Leach, A.F. The Schools of Medieval England. London, 1915.
- Lee, J. Lectures on the History of the Church of Scotland.  
Edited by W. Lee. Edinburgh and London, 1860.  
2 vols.
- Leishman, T. 'Neglected Provision and Remediable Defects in the  
Presbyterian Organisation and its better Adaptation  
to Existing Needs' in Scottish Church Society  
Conferences. Second Series. vol. ii. Edinburgh,  
1895. pp. 48-58.
- Leube, H. Calvinismus und Luthertum im Zeitalter der Orthodoxie.  
Leipzig, 1928
- Link, W. 'Das Ringen Luthers um die Freiheit der Theologie  
der Philosophie' in Forschungen zur Geschichte und  
Lehre des Protestantismus. 1940. vol. ix. part iii.



- Logan, G. An Overture for the right constitution of the General Assembly and an Illustration of it with an Appendix containing an useful and entertaining History of the Constitution of that Supreme Ecclesiastical Court from the first Assembly, anno 1560, down to our times. Edinburgh, 1736.
- Lunt, W.E. 'The Consent of the English Lower Clergy to Taxation during the Reign of Henry III' in Persecution and Liberty. Essays in Honor of George Lincoln Burr. edited by A.P. Evans. New York, 1931.
- McCrie, T. Life of Andrew Melville. New edition. Edinburgh, 1856.
- McEwen, A.R. A History of the Church of Scotland. London, 1913, 1918. 2 vols.
- MacEwen, J.S. The Faith of John Knox. London, 1961.
- Macgregor, J.G. The Scottish Presbyterian Polity. Edinburgh, 1926.
- McIlwain, C.H. The High Court of Parliament. New Haven, 1910.  
The Growth of Political Thought in the West. New York, 1932.
- Mackenzie, G. Observations on Acts of Parliament. Edinburgh, 1681.  
Jus Regium or Monarchy vindicated against Buchanan, Naphtali, Dolman, Milton etc. London, 1684.
- Mackie, J.D. and G.S. Pryde. The Estate of the Burgesses. St Andrews, 1923.
- McKechnie, H. (ed.) An Introductory Survey of the Sources and Literature of Scots Law. Stair Society. Edinburgh, 1936.
- Mackinnon, J. The Constitutional History of Scotland from Early Times to the Reformation. London, 1924.

- MacMillan, W. 'The Office of Lord High Commissioner to the General Assembly of the Church of Scotland.' Dunfermline, 1924.  
'Lord High Commissioner to the General Assembly' in Records of the S.C.H.S. vol. vi. pp. 36-45, 96-114 and 265-298.
- McUre, J. History of Glasgow. Second edition. Glasgow, 1830.
- Mair, W. A Digest of Laws and Decisions Ecclesiastical and Civil. Edinburgh, 1923.
- Malcolm, C.A. 'The Solicitor-General for Scotland'. in Juridical Review. Edinburgh, 1942. vol. liv. pp. 67-79 and 125-143.
- Martin, C. 'De la genèse des doctrines politiques de John Knox' in Bulletin Société de l'histoire du protestantisme française. 1907. pp. 192-221.
- Martine, G. Reliquiae Divi Andreae. St Andrews, 1797.
- Mathieson, W.L. Politics and Religion. Glasgow, 1902. 2 vols.
- Matthes, K. Luther und die Obrigkeit. Munich, 1937.
- Mayer, H.L. L'Eglise de Genève. Geneva, 1909.
- Mechie, S. The Office of Lord High Commissioner. Edinburgh, 1958.
- Meyer, C.S. Elizabeth I and the Religious Settlement of 1559. St Louis, 1960.
- Miller, P. 'The Origin and early History of the Old Tolbuith of Edinburgh' in the Proceedings of the Society of Antiquaries of Scotland. vol. xx. pp. 360-7.
- Miller, R. The Municipal Buildings of Edinburgh. Edinburgh, 1895.

- Mitchell, A.F.      The Wedderburns and their Work.    Edinburgh and London, 1867.  
History of the Scottish Reformation.    Edited by D. Hay Fleming.    Edinburgh, 1900.
- Mortimer, C.G.      'The Scottish Hierarchy in 1560' in Clergy Review. vol. xii. pp. 442-450.
- Mounier, P.        Le quattroceto.    Paris, 1908.
- Mülhaupt, E.       Die Predigt Calvins, ihre Geschichte, ihre Form und ihre religiösen Grundgedanken.    Berlin und Leipzig. 1931.  
Reformatoren als Erzieher.    Neukirchen, 1956
- Murray, A.        'The Procedure of the Scottish Exchequer in the Early Sixteenth Century' in S.H.R. vol. xl. pp. 89-117.
- Nitsch, F.        Luther und Aristotle.    1883.
- Ormond, G.W.T.     The Lord Advocates of Scotland from the close of the fifteenth century to the passing of the Reform Bill. Edinburgh, 1883.    2 vols.
- Owst, G.W.        Preaching in Medieval England.    Cambridge, 1926.
- Pagan, T.        The Convention of the Royal Burghs of Scotland. Glasgow, 1926.
- Pearson, A.Scott.   Church and State: Political Aspects of Sixteenth Century Protestantism.    Cambridge, 1928.
- Percy, Lord E.     John Knox.    London, 1937.
- Petrie, A.        A Compendious History of the Catholick Church, From the Year 600 untill the Year 1600.    Hague. 1662.



- Pfisterer, E.                   Calvins Wirken in Genf. Neukirchen, 1957.
- Pollard, A.F.                   The Evolution of Parliament. Second Edition.  
London, 1926.
- Post, G.                        'Plena Potestas and Consent in medieval assemblies'  
in *Traditio*. vol. i. pp. 355-408.
- Powicke, F.M.                  'Reflections on the Medieval State' in *Transactions of the Royal Historical Society*. Fourth  
Series. London, 1936. vol. xix. pp. 1-18.
- Rait, R.S.                     'Andrew Melville and the Revolt against Aristotle  
in Scotland' in *English Historical Review*. vol. xiv.  
1899. pp. 250-60.  
  
'Some notes on the history of university education in  
Scotland' in *Transactions of the Glasgow Archaeological  
Society*. Second Series. vol. v. part. ii. p.30 et seq.  
*The Parliaments of Scotland*. Glasgow, 1924.
- Rashdall, H.                  The Universities of Europe in the Middle Ages.  
New edition edited by F.M. Powicke and A.B. Emden.  
Oxford, 1936. 3 vols.
- Reid, H.M.B.                  The Divinity Principals in the University of  
Glasgow, 1545-1654. Glasgow, 1917.
- Reports to the General Assembly, 1961. Edinburgh, 1961.
- Richardson, H.G.              'The Origin of Parliament' in *Transactions of the  
Royal Historical Society*. Fourth Series. London,  
1928. vol. xi. pp. 137-183.
- Riddell, J.                    Peerage and Consistorial Law. Edinburgh, 1842.
- Riesenberg. P.N.              Inalienability of Sovereignty in Medieval Political  
Thought. New York, 1956.

- Rupp, E.G.                    Studies in the Making of the English Protestant Tradition. Cambridge, 1947.
- Schmidt, F.W.                'Der Gottesgedanke in Luthers Römerbrieflesung' in Theologische Studien und Kritiken, Lutherana. vol. iii. pp. 117 et seq.
- Scholz, R.                    Die Publizistik zur Zeit Philipps des Schönen und Bonifaz VIII. Stuttgart, 1903.
- Scott, H.                    Fasti Ecclesiae Scoticae. (new and revised edition) Edinburgh, 1915-61. 9 vols.
- Seaton, B.                    'The Distaff Side, a Study in Matrimonial Adventures in the 15th and 16th Centuries.' in S.H.R. vol. xvii. pp. 272-86.
- Shaw, D.                    'Laurence of Lindores' in Records of the S.C.H.S. vol. xii. pp. 47-62.
- Story, R.H.                  Apostolic Ministry in the Scottish Church, Edinburgh, 1897.
- Strohl, H.                    L'Epanouissement de la Pensée Religieuse de Luther de 1515 à 1520. Strassburg, 1924.  
L'Evolution religieuse de Luther jusqu'en 1515. Strassburg, 1922.
- Förnvall, G.                  Geistliches und weltliches Regiment bei Luther. (translation of Andligt och världsligt regiment hos Luther) Munich, 1947.
- Poyntee, A.J.                A Study of History. London, 1945. vol. v.
- Tytler, P.F.                  The Life of Sir Thomas Craig, Edinburgh, 1823
- Jlmann, W.                    Medieval Papalism. The Political Theories of the Medieval Canonists. London, 1949.

- Waddell, H.                      The Wandering Scholars, London. 1934.
- Waddington-Kastus, C. Ramus, ses Esrits, et Ses Opinions ... Paris, 1855.  
De P. Rami vita, scriptis, philosophia ..... Paris,  
1848.
- Waldie, G.                      A history of the town and Palace of Linlithgow.  
Linlithgow, 1858.
- Wallace, R.S.                  Calvin's Doctrine of the Christian Life.  
Edinburgh, 1959.
- Warrack, J.                    Domestic Life in Scotland. London, 1920.
- Webb, C.C.G.                  John of Salisbury. London, 1932.
- Weske, D.B.                    Convocation of the Clergy. London, 1937.
- Wierciszowsky, H.            Vom Imperium zum nationalen Königtum.  
Munich, 1933
- Winter, F.                    'Die Kirchenvisitation von 1528 in Wittenberger  
Kreise' Zeitschriften für die historische Theologie.  
vol. xxxiii. pp. 295-322.
- Wodrow, R.                    Collections upon the lives of the Reformers and  
most eminent Ministers of the Church of Scotland.  
Edited by W.J. Duncan. Maitland Club. Glasgow,  
1834-1848. 2 vols.  
History of the Sufferings of the Church of  
Scotland. (ed. R.Burns) Glasgow, 1828. 4 vols.
- Wood, M.                      Lord Provosts of Edinburgh, 1296-1932.  
Edinburgh, 1932.
- Workman, H.B.                Christian Thought to the Reformation. London, 1911.